

**LOCAL GOVERNMENT DECENTRALISED  
REFORMS IN SOUTH AFRICA:  
A COMPARATIVE PERSPECTIVE**

**BY**

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## **D E C L A R A T I O N**

I, the undersigned hereby declare that the work contained in this dissertation is my own original work and has not previously in its entirety or in part been submitted at any university for a degree.



## SUMMARY

All the countries in the world at one or another stage undergo reform or transformation primarily for political reasons and/or to adapt to the challenges and demands placed on the national governments by their electorate or populace. The type of reforms, that is, centralised or decentralised which are implemented in turn is dependent on the political conditions that prevail in a country as well as its system of government.

Any reforms which take place, whether in a developed or developing country, will have an impact on its political system as well as governmental structures which in turn will influence the intergovernmental relations in that country. Thus, any reforms implemented in a country with a centralised system of government will result in the weakening of the position of the national government in terms of power and functions. Conversely, reforms introduced in a country with a decentralised system of government will invariably strengthen the national government and weaken the lower levels of government in terms of legislation and executive power and functions.

For the purpose of this dissertation, the following criteria have been identified for comparison in respect of the decentralised reforms which have been implemented in the selected developed and developing countries, namely:

- political system;
- local political structure;
- local functions; and
- local finance.

The decentralised reforms which have taken place in the selected countries since the 1960's were evaluated individually in respect of the aforementioned criteria, whereupon a comparative evaluation was made between South Africa and the developing countries, namely, Botswana and Nigeria, as well as between South Africa and the selected developed countries, namely, Britain and the United States of America.



The foregoing evaluations *inter alia* revealed that decentralisation was implemented in the selected countries in various degrees or forms, namely, deconcentration, delegation, devolution and privatisation, the latter form by way of contracting out and/or by local authorities playing an enabling or facilitating role in respect of the provision of facilities and services.

Flowing from the evaluations, an integrated approach was followed to formulate an effective system of local government for South Africa with regard to the four criteria identified for the study, bearing in mind *inter alia* that South Africa is an advanced developing country, which in turn has an impact on the extent of the decentralised reforms which can practically be implemented.

The macro organisational decentralised reform proposals regarding the political system in South Africa entail:

- the separation of the legislative and the executive;
- the granting of greater guaranteed autonomy to the provincial and local governments; and
- the provision of local charters and listing of municipalities in the Constitution of 1996.

Turning to the local political structure, a decentralised two tier structure is proposed for metropolitan areas, a three tier structure for non-metropolitan areas, that is, the districts as well as the establishment of land boards in tribal areas and the appointment of commissioners in the districts to facilitate development planning and to co-ordinate the activities of the provincial and local government agencies.

With regard to the third criteria identified for the study, various functions are proposed to either be devolved or delegated to the local sphere of government, the functions to be executed by the different tiers of local government within the context of the decentralisation, functions which should be contracted out by local government and in respect of which functions private-public partnerships should be established with relevant bodies or organisations.

Finally, additional sources of revenue are proposed for municipalities in both the metropolitan and non-metropolitan areas, the increase in the rate of certain levies and taxes, the transfer of certain taxes between the tiers of local government, the introduction of a hybrid system of local government finance and for an integrated plan to be developed for the management of public finance.



## OPSOMMING

Al die lande in die wêreld ondergaan op een of ander tydstip hervorming en transformasie hoofsaaklik vir politieke redes en/of om aan te pas by die vereistes en uitdagings wat op nasionale regerings deur die bevolking of kiesers geplaas word. Die soort hervorming, dit wel sê, sentralisasie of desentralisasie wat geïmplementeer word, is op sy beurt afhanklik van die politieke toestande wat in 'n land heers, asook die land se stelsel van regering.

Enige hervormings wat plaasvind, hetsy in 'n ontwikkelde of ontwikkelende land, sal 'n impak hê op sy politieke stelsel asook owerheidstrukture wat weer op sy beurt 'n invloed sal hê op die interowerheidsverhoudinge in daardie land. Derhalwe, enige hervorming wat in 'n land met 'n gesentraliseerde stelsel van regering geïmplementeer word, sal die posisie van die nasionale regering verswak in terme van magte en funksies. Daarenteen, sal enige hervormings wat in 'n land met 'n gedesentraliseerde stelsel van regering geïmplementeer word, die posisie van die nasionale regering in terme van wetgewende en uitvoerende magte en funksies, versterk en dié van die laer vlakke van regering verswak.

Vir die doel van hierdie verhandeling, is die volgende kriteria geïdentifiseer vir vergelyking met betrekking tot die desentralisering hervormings wat geïmplementeer is in die geïdentifiseerde ontwikkelde en ontwikkelende lande, naamlik:

- politieke stelsel;
- plaaslike politieke struktuur;
- plaaslike funksies; en
- plaaslike finansies.

Die desentralisering hervormings wat in die geïdentifiseerde lande sedert die 1960's plaasgevind het, is individueel ge-evalueer met betrekking tot bogenoemde kriteria, waarna 'n vergelykende evaluasie tussen Suid-Afrika en die geïdentifiseerde ontwikkelende lande, naamlik, Botswana en Nigerië, asook tussen Suid-Afrika en die geïdentifiseerde ontwikkelde lande, naamlik, Brittanje en die Verenigde State van Amerika, gemaak is.



Die voorafgaande evaluasies het onder andere aan die lig gebring dat desentralisasie in die geïdentifiseerde lande in verskeie grade of vorms geïmplementeer was, naamlik, dekonsentrasie, delegasie, devolusie en privatisering, die laasgenoemde vorm deur middel van uitkontraktering en/of deur plaaslike owerhede wat 'n ondersteunende of fasiliterende rol speel met betrekking tot die voorsiening van geriewe en dienste.

Voortspruitend uit die evaluasies, is 'n geïntegreerde benadering gevolg om 'n effektiewe stelsel van plaaslike regering vir Suid-Afrika te formuleer met verwysing na die vier kriteria wat vir die studie geïdentifiseer is, met inagneming *inter alia* van die feit dat Suid-Afrika 'n gevorderde ontwikkelende land is, wat op sy beurt 'n impak het op die omvang van die gedesentraliseerde hervorming wat prakties geïmplementeer kan word.

Die makro-organisatoriese gedesentraliseerde hervormingsvoorstelle betreffende die politiese stelsel in Suid-Afrika behels:

- die skeiding tussen die regsprekende en die uitvoerende magte;
- die toekenning van groter gewaarborgde outonomie aan die provinsiale en plaaslike regerings; en
- die voorsiening van selfbeskikkingshandveste en notering van munisipaliteite in die Grondwet van 1996.

Met verwysing na die plaaslike politieke struktuur, word 'n gedesentraliseerde twee-vlak struktuur vir metropolitaanse gebiede voorgestel, en 'n drie-vlak struktuur vir nie-metropolitaanse gebiede, dit wil sê vir distrikte sowel as die vestiging van landelike rade in stamgebiede en die aanstelling van kommissarisse in distrikte om ontwikkelingsbeplanning te fasiliteer en om die aktiwiteite van die provinsiale en plaaslike regeringsagentskappe te koördineer.

Met verwysing na die derde kriteria wat vir die studie geïdentifiseer is, word verskeie funksies voorgestel wat op die plaaslike sfeer van regering afgewentel of gedelegeer kan word, funksies wat deur die verskillende vlakke van plaaslike regering binne die konteks van desentralisasie uitgevoer kan word, funksies wat deur die plaaslike regering uitgekontraakteer kan word en met verwysing na funksies waar privaat-publieke vennootskappe met betrokke liggame en organisasies gestig behoort te word.

Ter afsluiting word addisionele bronne van inkomste vir munisipaliteite voorgestel in beide metropolitaanse en nie-metropolitaanse gebiede, die verhoging van die skaal van bepaalde heffings en belastings, die oordra van bepaalde belastings tussen die vlakke van plaaslike regering, die instelling van 'n gemengde stelsel van munisipale finansies en 'n geïntegreerde plan wat vir die bestuur van openbare finansies ontwikkel kan word.



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# CHAPTER 1

## GENERAL INTRODUCTION

### 1.1 BACKGROUND

South Africa being a former colony of Britain inherited the unitary system of government based on the so-called Westminster Parliamentary model from its former colonial power. The Constitution of 1961 which established the Republic of South Africa, however, contained certain features of federalism, such as relatively autonomous provincial governments. The system of local government in South Africa also closely resembled the system in Britain, and particularly that of England.

South Africa has characteristics or features common to both developed and developing countries and the culture and traditions of its heterogeneous society continue to have an influence on the development and role of local government.

The four countries selected for the dissertation, namely, Britain, Botswana, Nigeria and the United States of America have either unitary or federal systems of government and are also either developed or developing nations. Botswana and Nigeria are former colonies of Britain who, like South Africa, gained their independence in the 1960's. The United States of America on the other hand gained independence from Britain in 1783 and, as such, was also greatly influenced by the English system of local government.

Decentralisation is the cornerstone of any reform initiative, particularly in a multi-party democratic state such as the Republic of South Africa. Any changes or reforms (political ideology) brought about to the system of government in a country invariably have an effect on the political system, structure, functions and finance of the various levels of government, which criteria form the basis of this study. Thus, the criteria identified for the dissertation are interrelated.



South Africa has undergone significant decentralised reforms since the first truly democratic national elections in 1994, which were followed by the municipal elections in 1995/96 in the various provinces. The transformation process effected the political system in the country which is enshrined in **The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)** (hereinafter referred to as the Constitution Act, 1996) as well as the system of local government, which process is now (1999) in its final stages, that is, with regard to the local level of government.

Similarly, local government in the selected developed and developing countries has undergone various decentralised reforms in respect of the political system, local political structure, functions and finance, aspects of which could prove to be useful when developing an effective system of local government which would be appropriate in the context of South Africa.

## 1.2 PURPOSE

The study has been embarked on due to the fact that in South Africa under the previous political dispensation there has been much rhetoric during the 1980's regarding the devolution of power to local government which, mainly for political reasons, never took place.

Under the current democratic political dispensation, local government has for the first time been recognised as a separate sphere of government. Yet, despite this entrenched position as a separate level or sphere of government in terms of the **Constitution Act, 1996** the situation pertaining to the devolution of powers and functions to local government has by and large remained unchanged. In fact, the position of local government in terms of decentralisation has been exacerbated by restrictive enabling legislation such as the **Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)** and the **Local Government: Municipal Systems Bill, 1999** in view of the fact that decentralisation policies are still determined by the National Government.



Universally multi-party democratic reforms are usually associated with the decentralisation of power and authority. However, the study will verify the fact that the objectives and values of decentralisation have not been adhered to in the South African context of political reform, particularly with regard to the decentralisation policies of local government. Although the local political structures have changed significantly, the strategies and trends pertaining to decentralisation have in essence remained the same due to the fact that they are still being determined by the National Government.

The governments of many countries, including South Africa, follow an *ad hoc* or piecemeal approach when embarking on a political reform process which often leads to unnecessary delays with serious repercussions, for example, focus on structures without simultaneously addressing the other aspects which are interrelated, such as, functions and finance. In this study an integrated approach was followed with regard to the criteria identified to develop an effective system of local government in South Africa, that is, in respect of the local structures, functions and finance.

In view of the five year local government transformation process in South Africa which is to culminate with the municipal elections envisaged for the end of 2000, an evaluation was carried out of the decentralised reforms implemented since the 1960's in the selected developed and developing countries as well as South Africa, which evaluation focused on the criteria identified for the study, namely, political system, local political structure, functions and finance.

Flowing from the literature studied, and the individual evaluation of all the countries in question, a comparative evaluation was done by firstly, comparing the selected developing countries, namely, Botswana (unitary system) and Nigeria (federal system) with South Africa and secondly, by comparing the selected developed countries, namely, Britain (unitary system) and the United States of America (federal system) with South Africa (elements of both systems) in respect of the criteria identified for the study.



Following the foregoing comparative evaluation from which a perspective was gained of the differences, similarities, trends and factors which have had an influence on local government in these countries over various time frames, the positive experiences and lessons of which decentralised reforms were utilised in formulating an effective system of local government appropriate to South Africa.

The foregoing was done bearing in mind, *inter alia* that South Africa is a mixture between a developed and a developing country, has a unitary system of government with several features of a federation, its inherent cultural, demographic, geographic and socio-economic characteristics as well as the developmental context or role of the local sphere of government.

### 1.3 METHODOLOGY

In order to undertake a study of comparative government, it is essential to address the political experiences, institutions, processes and trends of the major systems of government with the view to discern similarities and differences, to determine variable and constant phenomena, and to distinguish the unique from the common or general.

A comparative evaluation or study basically has three objectives, namely, to:

- develop a verifiable body of knowledge about government in general;
- analyse political experiences, institutions, processes and trends in terms of cause and effect, and desirability or undesirability; and
- be able to predict events, strategies and consequences.

Flowing from the foregoing, there are various methods which can be deployed when embarking on a study of comparative government, the choice of which depends on what it is one seeks to learn about political systems, as well as what one wishes to compare. It should be noted that the different methods are not mutually exclusive but mutually supportive and, as such, they overlap in part.



It can be stated that for the purpose of this study, a structural-functional approach or method was by and large followed whereby within the political system, for example, constitution and executive branch, various structures perform differing functions essential to its viability. This method aims at a systematic determination of the functional requisites of any society and of their relationships.

In essence the study entails the individual evaluation of the decentralised reforms in respect of the political systems, local political structures, functions and finance in the selected developed and developing countries and South Africa, whereupon a comparative evaluation of these countries is undertaken, culminating in proposals for an effective system of local government for South Africa.

The study is primarily based on the following in respect of the selected countries and South Africa:

- literature and published articles on municipal government and administration;
- reports of the various committees and commissions of enquiry which have over the past few decades been appointed to examine the system of local government;
- Acts of Parliament which have an impact on local government;
- official documents;
- working papers and presentations; and
- communications and interviews with various academics, colleagues and consultants locally in the field of municipal government and administration.

## **1.4 MOTIVATION AND REASONS FOR LAYOUT**

The historical development of local government in the subject countries has been included in the study with the view to establishing the factors which influenced or played a role in the formation of the systems of local government, for example, cultural, demographic, ethnic, geographic, religious, political and



socio-economic, which also must be read with chapter two. These elements also have a bearing on or indicate the extent to which a country is either developed or less developed.

The decentralised reforms in the selected developing and developed countries and South Africa have primarily been described over various time frames due to the fact that changes in respect of the criteria identified for the study were effected when, for example, new governments came into power. (The reasons for selecting the countries in question are set out in section 1.1).

Hence, in these chapters, that is, three to seven, the literature or sources used were predominantly published either during or shortly after the specific period, the reason being that these authors had first hand experience and knowledge of what transpired at that particular time.

Furthermore, the details of some of the tables used are outmoded which is primarily due to the lack of available alternative sources. However, the tables have essentially been used for comparative purposes and the conditions or situation has been verified by later literature or sources.

Turning to chapters eight and nine which comprise the comparative evaluation of the selected developing and developed countries, no subtitles or subsections were used due to the fact that the focus is on the decentralised perspectives and trends which were followed in respect of the criteria identified for the study and not, for example, on the details as to how each function is being executed.

With regard to the political system, the executive branch of national government has been incorporated in the dissertation as it indicates the system of government prevalent in a country which in turn impacts on the degree or form of decentralisation of authority and power as well as the intergovernmental relations. Furthermore, the activities and functions of the national executive and its agencies have an influence on the other levels or spheres of government.



It should be noted that for the purposes of this dissertation the national, provincial and local governments are referred to as levels or spheres of government and as tiers within the context of the local sphere of government.

The national legislature has not been addressed in the study due to the fact that the executive through its agencies determines the manner in which the powers and functions entrusted upon it by the legislature are executed, that is, the degree or form of decentralisation which in turn has a bearing on the other spheres of government.

In view of the fact that decentralisation of authority and power in the context of local government reform is the basis of the study, the political system, local political structure, functions and finance have been identified as criteria for comparison to develop proposals for local government in South Africa.

The said four criteria have been addressed in the foregoing sequence throughout the study due to the fact that the first aspect which is or needs to be addressed when contemplating political change or reform is the system of government, for example, the constitution of a country. This then should be followed by the form or type of provincial, if any, or local political structure, for example, tiers that ought to be in place which is usually stipulated in enabling legislation, whereupon it is determined which functions should be decentralised to these structures and to what degree. Finance is the last aspect that needs to be addressed and, in particular, the methods or source of funding, for example, own or by way of subsidies, that is, finance follows function.

The said criteria are interrelated in that, for example, any change or reform to a centralised political model or system will involve the weakening of the national government which consequently entails the strengthening of the lower spheres of government, that is, decentralisation in terms of legislative and executive power and functions, for example, the making of laws and regulations and the execution or implementation thereof.

Flowing from the foregoing, any centralised or decentralised reforms to the political system of a country impacts on the structures, functions and finance of the lower levels of government.



## 1.5 ASSUMPTIONS AND LIMITATIONS

The following broad assumptions have been made in order to facilitate the study:

- the **Constitution Act**, 1996 will remain supreme;
- South Africa will continue to function as a multi-party democracy;
- the Government of the day will adhere to the objectives and values of decentralisation, such as, nation building, democracy, freedom, efficiency of administration, social and economic development, responsiveness and accountability and political or public participation; and
- South Africa will continue to be able to be classified as an advanced developing nation.

The following aspects have been excluded from the study:

- legal technical details regarding the implementation of the proposed changes to the **Constitution Act**, 1996;
- micro-organisational structures of local government, that is, internal structures such as committee systems, town clerk and heads of department and political office bearers, details of which are not readily available particularly in respect of the selected developing countries and which would make the extent of the study too voluminous; and
- detailed practical aspects and mechanisms pertaining to the implementation of the proposed decentralisation of functions and finance (sources of revenue) to the local sphere of government in view of the fact that these develop over time through, for example, policies and court rulings on intergovernmental relations.

## 1.6 FORMAT

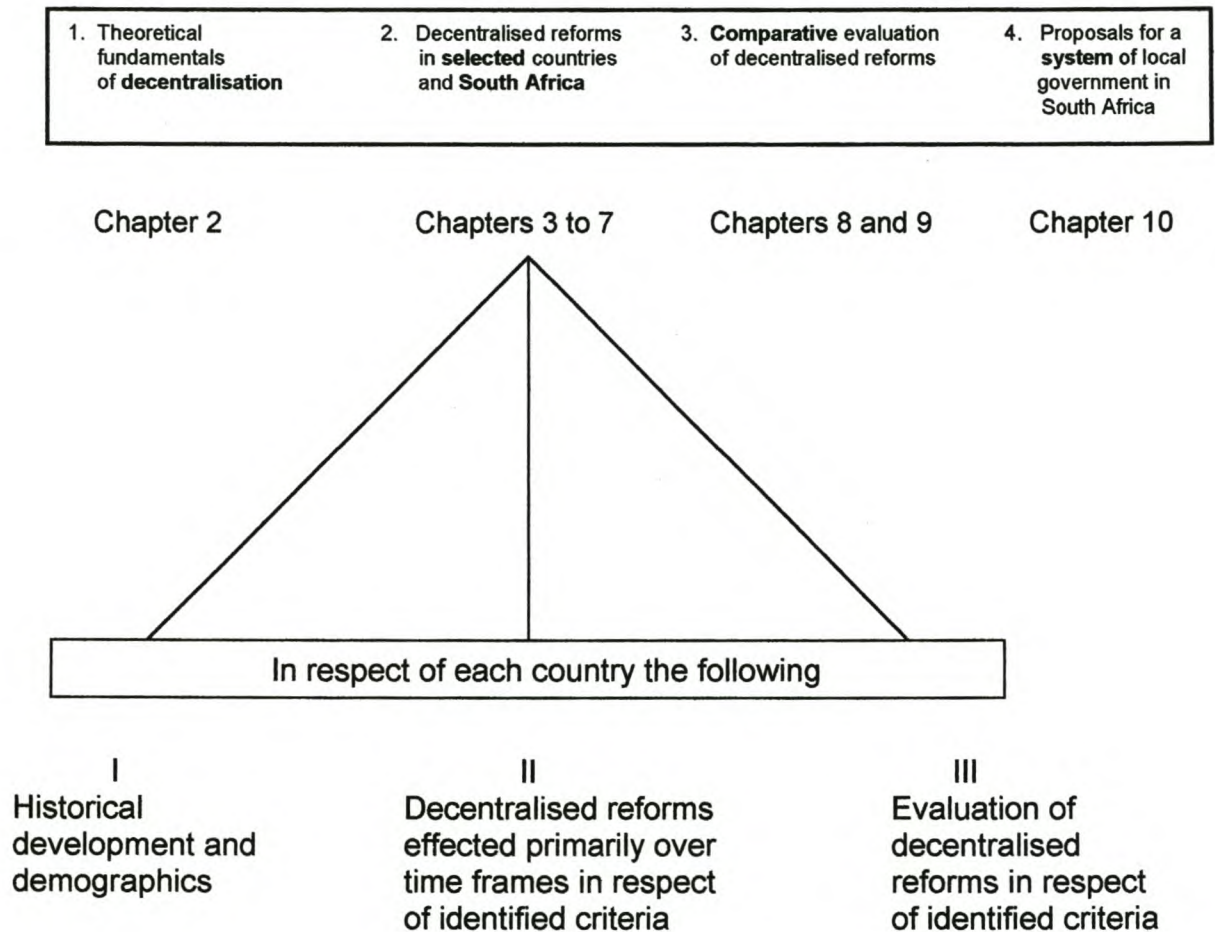
The study consists of four parts. The first part is a theoretical exposition of the fundamentals of decentralised local government. The second part describes the actual decentralised reforms which have taken place over time frames in the selected developing and developed countries as well as South Africa with the emphasis on the criteria identified for comparison. The third part of the



dissertation comprises a comparative evaluation of the criteria of the subject countries. In the final part proposals are made for an effective system of local government for South Africa.

The framework for the study is depicted in Figure 1.1.

**Figure 1.1 : Framework for the Study**



The content of the various chapters is broadly described hereunder.

Chapter two gives a theoretical exposition of the various facets of decentralisation; the characteristics of developed and developing countries, as well as the political systems, which includes constitutions, systems of government and intergovernmental relations; local political structures, which includes the types, strong and weak tiers and models of local government; local functions, which entails basic functions, categories of local services and the allocation of functions; and local finance, which includes sources of revenue, principles of financing and models of finance systems.

In chapters three to seven the historical development of local government and the decentralised reforms which have been implemented since the 1960's in respectively Botswana, Nigeria, Britain, that is, England, Scotland and Wales, United States of America and South Africa and which focus on the political system, local political structure, functions and finance, are addressed, after which an evaluation is made in each chapter of the decentralised reforms in respect of the foregoing criteria.

Comparative evaluations are made of the decentralised reforms in respect of the criteria identified for the study between South Africa and the selected developing and developed countries in respectively chapters eight and nine, that is, Botswana (unitary system) and Nigeria (federal system) with South Africa and Britain (unitary system) and the United States of America (federal system) with South Africa which has elements of both political systems and can be classified as an advanced developing country.

Finally, taking cognisance of the objectives and values of decentralisation, the fact that South Africa is a mixture of a developed and a developing country, that South Africa has unitary system of government with several federal features as well as the developmental role of the local sphere of government, the positive experiences, initiatives, lessons and strategies of the decentralised reforms which came to light as a result of the comparative evaluation, an effective system of local government for South Africa was developed, details of which are contained in chapter ten. It is not a blue print but a model for local government framed in terms of the strategies and trends of decentralisation which have been applied or initiated in the said countries in respect of metropolitan and non-metropolitan areas.



## **CHAPTER 2**

### **FUNDAMENTALS OF LOCAL GOVERNMENT**

#### **2.1 INTRODUCTION**

Local government has over the past decades undergone substantial reforms in the so-called industrialised or developed and less developed or developing countries.

In both the industrialised and less developed countries the concept of decentralisation has received particular attention, as is manifested by many of the local government acts and innumerable reform proposals put forward over the said period in, for example, Botswana, Britain, Nigeria, South Africa and the United States of America.

The policies of national governments in both developed and developing countries with regard to decentralisation have a major bearing on the structure, functions and finance of local government.

The purpose of this chapter is to describe various facets of decentralisation, the characteristics of developed and developing countries, as well as the criteria identified for comparison which will be used to develop proposals for local government in South Africa, in respect of the political system, local political structure, functions and finance.

#### **2.2 DECENTRALISATION**

Decentralisation has been a major theme of governance in recent decades. In many countries it forms a key element of the reform agenda. Decentralisation has been a response to both political pressures and changing economic circumstances in Africa, Europe and the United States of America. The principle of making decisions at the lowest feasible level was, in fact,



incorporated within the European Union's Single European Act of 1987. In Central and Eastern Europe the demand for local autonomy was a fundamental element of the political reform process of the late 1980's and early 1990's, which resulted in the creation, or re-creation, of a large number of relatively autonomous local governments (Devas, 1997 : 351-352).

Turning to Latin America, decentralisation has been a key element of the process of democratisation, and particularly in the search for a more participatory approach to development. This has also been the case in certain African countries, for example, Botswana, Nigeria and the new South Africa, that is, since its first democratic elections in 1994 (Devas, 1997 : 352).

In the subsections to follow the objectives, definitions, forms and degrees as well as values of decentralisation will be addressed.

## **2.2.1 OBJECTIVES OF DECENTRALISATION**

The objectives of decentralisation can be categorised into nation building, democracy, freedom, efficiency of administration, and social and economic development.

### **2.2.1.1 Nation Building**

In countries where political unity is not firmly established the system of decentralisation is generally designed so as to stimulate the consolidation and reinforcement of national unity and to reduce any centrifugal forces that may be present. The government will not only be reluctant to establish a local government system which may create power centres capable of competing with or opposing the central government, it will also be inclined to demarcate the boundaries of regional and local units in such a way that the existing power centres will be weakened or destroyed (Leemans, 1970 : 17).

Notwithstanding the lack of political unity, governments have introduced representative local government as a nation-building instrument. Meeting the people's desires to participate in governmental affairs, at least at local level, has



long been considered a useful device to reduce their resistance. In several countries whose governments were autocratic rather than democratic, attempts were made to establish representative local government institutions. Czarist Russia was a striking example, as well as India under British rule, where several experiments were made to introduce local self-governing institutions in cities and rural areas (Leemans, 1970 : 18).

According to Rondinelli (1981 : 136) and Rondinelli *et al* (1984 : 6) decentralisation increases political stability and national unity by giving groups in different sections of the country the ability to participate more directly in decision-making, thereby increasing their stake in maintaining the political system. Greater participation in development planning and management promotes national unity by giving groups in different regions in a country a greater ability to participate in planning and decision-making, and thus increases their stake in maintaining political stability. Leemans (1970 : 19), however, adds that national unity not only requires greater participation, but also necessitates the shaping of local government units where size and managerial capacities can guarantee the level of achievement and service demanded by central government.

Thus, decentralisation has been used as a device for nation building even in countries which have lacked political unity by encouraging greater participation through the establishment of representative local government units. Greater participation in development planning and decision-making processes can or may promote stability in a political system.

#### **2.2.1.2 Democracy**

Leemans (1970 : 19) writes that in the developed countries situated in North America and Europe, democracy, in the sense of government and administration of local community by organisations composed of people elected by the community's population, formed the ideological basis of the decentralisation system introduced during the nineteenth century.



Since gaining their independence after World War II, the governments of many of the developing countries in Asia and Africa have emphasised the same ideological principle as being a prime objective of their system of local government and administration. However, representative local government, particularly in rural areas, is far from truly democratic as many villages which have nominally been promoted to the status of democratic bodies, are still dominated by landlords or tribal chiefs. This often leaves little opportunity for effective democratic participation by the people, in which case the purpose of decentralisation is a fallacy (Leemans, 1970 : 20).

However, within the latter context, Rondinelli (1981 : 135) states that decentralisation allows far greater political penetration of national government policies in areas remote from the national capital, where central government plans are often unknown or ignored by the rural population or are determined by local elites, and where support for national development plans is often poor.

Bowman & Hampton (1983 : 17) write that claims for the value of participation in local politics often rest on the assumption that the local government area is co-extensive with a community to which its members are emotionally attached, which attachment will nourish their interest in and sense of responsibility towards local affairs.

Leemans (1970 : 20-21) states that even in developed countries where local democratic institutions have existed for some period and democracy is considered to be a root of society, doubt is being expressed about the truly democratic nature of local government. A striking example of this is offered by the report of the Maud Commission in 1969 on the management of local government in Britain, which considers the operation of local government to often be undemocratic.

In many of the countries with a one-party system, local politicians are frequently controlled and directed by the national party. As a result of the centralisation of party policy-making, decisions by political factions in local councils are inspired by central policies rather than the wishes of the local electorate (Leemans, 1970 : 21).



Diamond *et al* (1995 : 46) summarise that the decentralisation and democratisation of power at the local level serve democratic consolidation by removing barriers to participation, enhancing the responsiveness and accountability of government, testing innovations in governance, diminishing the winner-takes-all in politics, by giving the opposition or minority political parties a chance to have a share of power to learn the complexities of governing, and to establish political credibility and responsibility by developing experience first at the lower levels of government. However, undemocratic features in local government can be found in both developed and developing countries.

### **2.2.1.3 Freedom**

One of the prerequisites for democratic local government is freedom of association to protect sectional interests that are free to mobilise in defence of their interests and to lobby those in office in order to persuade them of the reasonableness of their cause. Freedom must extend to the formation of political parties that compete for office through the local electoral system (Smith, 1996 : 164).

According to Walker (1991 : 127) one of the fundamental reasons for decentralisation has been hostility to a powerful, strongly entrenched central bureaucracy and its control over regional and local governments along with the desire for greater local freedom, as was the case in France, Greece and Italy. Leemans (1970 : 22) concurs that the lack of local freedom has been a major problem area of local governments in the European developed countries in their fight against central government control and interference.

In developing countries, especially in Africa and Asia, the emphasis on local freedom, or opposition to central government control and interference is much weaker due to them being institutionally, politically, socio-economically under developed as well as the historical factors inherent in these countries (Leemans, 1970 : 22).

Leemans (1970 : 23) is of the opinion that the philosophy of freedom and autonomy is particularly opposed to the abolition of any local unit, whether by



amalgamation or by annexation by central cities and that the introduction of a higher or intermediate tier is seen contrary to local freedom of decision-making, the philosophy being freedom of the individual and of individual communities.

Thus, in a democratic state, local freedom or independence from central government can be construed as one of the principal objectives of decentralisation.

#### **2.2.1.4 Efficiency of Administration**

According to Leemans (1970 : 23) the efficiency of the administration in discharging services has been a consideration in determining the structure of the local government system in countries where local government has been reformed. Rondinelli *et al* (1984 : 5) write that decentralisation will reduce overload and congestion in the channels of administration and communication, and also improves local government's responsiveness to the public and increases the quantity and quality of the services they provide.

Local governments in the developed countries have been moving towards greater efficiency and effectiveness. This has mainly been driven by the necessity of coping with increased demand with reduced resources. The rate of change experienced by local authorities has been accelerating and techniques needed to be found to cope with the changes. Local authorities have found it helpful to redefine objectives and priorities and to determine the most cost effective method of delivery (Hollis & Plokker, 1995 : 45).

Any unit of local government needs to be viable in order to carry out its role efficiently. Arguments can be made for both small and large local units. However, in practice, research has proven that the size of a local government unit of itself has only a limited bearing on its efficiency, effectiveness and democratic content. Instead, local variations in standards, style and competence of management are equally important in finding the best way to combine cost effectiveness and local responsiveness (Hollis & Plokker, 1995 : 92).



Leemans (1970 : 23) is of the opinion that, particularly in countries with a tradition of strong local government, the efficiency objective made itself felt in the following two respects:

- the optimum service area for different public service activities needed re-examining; and
- efficiency, in some instances, required the number of local government units to be reduced, thus, saving manpower and material.

Thus, the efficiency of administration objective of decentralisation will affect the size and structure of local governments which has to be addressed on an ongoing basis in order to cope with changing circumstances and to be responsive to public demands.

#### **2.2.1.5 Social and Economic Development**

The objective of social and economic development requires the promotion of active popular participation as well as the integration of governmental activities for the various geographic areas and governmental tasks. In several countries, social and economic development is the primary objective of overall government policy. A concerted government policy for economic and social development is not only found in numerous so-called developing countries, but also in many West-European countries and, to an increasing extent, in the United States of America (Leemans, 1970 : 24).

Flowing from the foregoing, Section 153 of the **Constitution Act**, 1996 stipulates that municipalities in South Africa must structure and manage their administration and budgeting and planning processes to give priority to the basic needs of their communities; and to promote the social and economic development of their communities; and to participate in national and provincial development programmes.

Smith (1996 : 170) is, however, of the opinion that only in the developed countries can local governments make a substantial contribution to the social and economic development of their communities by providing investment



capital, manufacturing facilities and industrial training. Local authorities in many developing countries nevertheless provide the essential physical infrastructure for the local economies, for example, water supply, sewage disposal, drainage and roads.

Rondinelli *et al* (1984 : 5) state that decentralisation is justified as a way of managing national, social and economic development more effectively or efficiently, but that the governments in developing countries who have tried to decentralise during the 1970's and 1980's have not always had effectiveness or efficiency as their goals.

In conclusion it can be stated that decentralisation plays a vital role in developed countries by virtue of the fact that they mostly comprise democracies with the necessary skills, whereas in developing countries decentralisation plays a far lesser role due to the political, socio-economic, institutional and historical factors prevalent in these countries. Nevertheless, the governments in these countries are making a concerted effort to bring about social and economic development.

### **2.2.2 DEFINITIONS OF DECENTRALISATION**

In this subsection various definitions of decentralisation will be addressed.

According to Mawhood (1993 : 4) decentralisation is the sharing of part of the governmental power by a central ruling group with other groups, each having authority within a specific area or state.

Cameron (1995 : 396-397) and Rondinelli (1981 : 137) define decentralisation as the transfer or delegation of legal and political responsibility for planning, management and resource use and allocation from the central government and its agencies to field organisations of these agencies, subordinate units of government, semi-autonomous public corporations, area-wide regional or functional authorities, or non-governmental private or voluntary organisations.



Alderfer (1967 : 53) is of the opinion that decentralisation is the transfer of powers to locally elected authorities. Such local units are commonly the municipalities, where the people normally elect their local councils. In decentralisation, policies are both made and carried out at the local level.

Smith (1997 : 400) states that organisationally, decentralisation means a choice between different types of public institutions, which vary in terms of the areas over which they have jurisdiction, the range of functions delegated to local institutions and the level of discretion allowed, and the manner in which decision-makers are recruited, so producing institutions that are primarily political or bureaucratic or a mixture of both.

In conclusion, decentralisation can be defined as the transfer of authority or power from a higher to a lower level of government, quasi-government or non-governmental organisations to execute and manage public activities or functions.

The foregoing are broad definitions of decentralisation, a more detailed analysis of which will bring to the fore that it comprises a number of degrees or forms.

### **2.2.3 FORMS OF DECENTRALISATION**

According to Rondinelli (1981 : 137) decentralisation can take a number of forms.

Firstly, distinctions can be made between functional and areal decentralisation. The former focuses on the transfer of authority to perform specific tasks or activities to specialised organisations that operate nationally, or across local jurisdictions. Areal decentralisation, on the other hand, is primarily aimed at transferring responsibility for public functions to organisations within well-defined sub-national, spatial or political boundaries, for example, a province, district or municipality.

Secondly, a distinction can be made among degrees of decentralisation, namely, deconcentration, delegation, devolution and privatisation.



Burns *et al* (1994 : 6) write that decentralisation has two meanings. On the one hand it is used to refer to the physical dispersal of operations to local offices, that is, deconcentration. On the other hand it is used to refer to the delegation or devolution of a greater degree of decision-making power to lower levels of government.

Thus, there are four degrees or forms of decentralisation, namely, deconcentration, delegation, devolution and privatisation.

In the ensuing subsections the concepts of deconcentration, delegation, devolution as well as privatisation will be addressed, the latter of which has been included as a form of decentralisation for the purpose of this dissertation.

#### **2.2.3.1 Deconcentration**

Alderfer (1967 : 53) writes that deconcentration means the transfer of powers to subordinate authorities, whether offices or field units. Normally the term refers to provinces, districts, regions and other geographic divisions established by the central government and utilised as subordinate units by its ministries and departments. Such units would be concerned mainly with carrying out policies made by central government and directives issued by the national agencies under which they operate.

Rondinelli (1981 : 137) and Cameron (1995 : 397) are of the opinion that deconcentration is the least extensive form of decentralisation. It often involves the shifting of workload from central government ministry headquarters to staff located in offices outside the national capital, and the staff may not be given the authority to decide how those functions are to be performed.

A greater degree of deconcentration to the one mentioned above can be achieved through field administration which implies the transfer of decision-making discretion to field staff, allowing them some latitude to plan, make routine decisions and adjust the implementation of central government directives to local conditions, within the guidelines set by the central ministries (Rondinelli, 1981 : 137).



Deconcentration implies the sharing of powers between members of the same ruling group having authority in different areas; political structures which essentially represent the interests of the central government and depend on their support, functioning in areas away from the national capital; and units of local administration in which formal decision-making is exercised by central government appointed officials (Mawhood, 1993 : 4).

Humes & Martin (1969 : 181) are of the opinion that deconcentrated functions may be interpreted to include those obligatory functions which the local units must carry out in a manner which is precisely specified in the law by which the function is delegated, their implementation being closely controlled by the staff of the higher tier of government.

Directives are issued either by the executive of the central government or of the other higher units are used to spell out exactly how a deconcentrated task is to be carried out. These directives may be either general or specific in nature. General directives are equally applicable to all local units and are used in almost all countries. Specific directives are applicable only to certain specific local units cited by the directive, which type of directive is used in countries with relatively less local representative government (Humes & Martin, 1969 : 181).

In conclusion, deconcentration can be defined as the transfer of activities or work from the headquarters to agencies, branches or units of the same organisation, that is, the spreading of the workload within an organisation. Deconcentration does not entail the transfer of original decision-making powers from, for example, central to local government. The decision-making is exercised by central government officials. Agencies, branches or units have to operate within the framework and policies determined by the headquarters of the organisation or the stipulations of the law.

Deconcentration also implies the transfer of functions from, for example, central to local government, which the latter is obliged to perform according to the stipulations in the law or directives issued by the former.



### 2.2.3.2 Delegation

Rondinelli *et al* (1984 : 15) write that delegation transfers managerial responsibility for specifically defined functions to organisations that are outside the regular bureaucratic structure and that are only indirectly controlled by central government, for example, a public corporation. Delegation has long been used in administrative law. It implies that a sovereign authority, such as the central legislature, creates or transfers to an agent or delegate specified functions and duties, which the delegate has broad discretion to carry out. However, ultimate responsibility remains with the sovereign authority.

Rondinelli (1981 : 138) and Cameron (1995 : 397) state that delegation implies the transfer or creation of broad authority to plan and implement decisions concerning specific activities with specific spatial boundaries to an organisation that is technically and administratively capable of carrying them out.

Richards (1956 : 33) states that a delegate, as distinct from an agent, is entrusted with some measure of discretion and it follows that the delegating authority surrenders a measure of responsibility. The extent of this surrender and the degree of discretion granted to the delegate is determined by whatever arrangements have been made. An agent, however, is a mere "conduit pipe" and is empowered solely to carry out the instructions of his/her principal. The principal, in relation to his/her agent, suffers no loss of control.

Meyer (1978 : 97) states that delegation is the conferring of an authority to do things which otherwise the authorised person or delegator would have to undertake. Pressure of work and practical considerations forces the legislature to transfer or delegate to a certain extent the power vested in it, to another person or body.

Meyer (1978 : 91) continues that delegation is an important legal principle and source of administrative power to local government. It enjoys extended delegated powers as a subordinate legislature as well as delegated power to perform various powers, functions and duties. Because of its organisation of a



political supreme council and a local administration, internal delegation of administrative powers is also inevitable.

A typical example of delegation within the South African local government context is when a council, in terms of the applicable provincial legislation, delegates some of its powers to its standing committees and principal officers, that is, powers to dispose of certain matters on its behalf. The council, however, ultimately remains the responsible authority and may revoke such delegated power/s at any time.

Thus, delegation can be defined as the transfer of decision-making authority or power for specific activities or functions to organisations falling under the indirect control of, for example, central and regional governments or organisations outside the regular bureaucratic structure, or to bodies or individuals within an organisation, for example, municipal council to a standing committee or head of department, for which the former or delegator is or remains ultimately responsible.

#### **2.2.3.3 Devolution**

Devolution is the transfer of powers to special bodies endowed with their own legal personalities, and separate from the central government, its central ministries, and local authorities. However, in most cases these special bodies are subject to some central control, for example, statutory bodies responsible for community health (Alderfer, 1967 : 53-54).

According to Rondinelli (1981 : 138) and Cameron (1995 : 397) devolution is the most extreme form of decentralisation. It implies the divestment of powers by the central government and the creation of new units of governance who fall to a large degree outside the control of central government. Thus, devolution represents the concept of separateness, of diversity of structures within the political system as a whole, for example, specially created electricity, health or water authorities.



Rondinelli *et al* (1984 : 19) are of the opinion that devolution is the creation or strengthening financially or legally of sub-national units of government, the activities of which are substantially outside the direct control of the central government. Under devolution, local units of government are relatively independent, and their legal status makes them separate or distinct from the central government. Central governments frequently exercise only indirect, supervisory control over such units. Local governments have clear and legally recognised geographical boundaries within which they exercise an exclusive authority to perform explicitly granted or reserved functions.

Devolution requires that local governments be given autonomy and independence, and be clearly perceived of as a separate level over which central government exercises little or no direct control. Local governments should be given clear and legally recognised geographical boundaries over which they exercise authority, and within which they perform public functions (Rondinelli *et al*, 1989 : 75).

In conclusion, devolution may be defined as the divestment or transfer of original legislative powers by the central government to separate units of governance which fall substantially outside the direct control of the central government.

#### **2.2.3.4 Privatisation / Commercialisation**

Gildenhuys (1989 : 39) is of the opinion that privatisation can be seen as a rationalisation process and is a meaningful facet of a government's policy for the promotion of private initiative and a market orientated economic system. Privatisation is also aimed at reducing and combating excessive local government expenditure, which does not have the same positive effect on economic growth as does spending by the private sector.

Rondinelli *et al* (1989 : 72) state that some governments have divested themselves of responsibility for functions either by transferring them to voluntary organisations or allowed them to be performed by private enterprises. In some cases, governments have transferred responsibility to "parallel organisations",



such as national industrial and trade associations, professional groups, religious organisations or co-operatives. These “parallel” organisations have been given the responsibility to licence, regulate or supervise their members in performing functions that were previously performed or regulated by the government, that is, horizontal decentralisation.

Rondinelli *et al* (1984 : 23) write that governments may decentralise by shifting the responsibility for producing goods and supplying services that were previously undertaken by parastatal or public corporations to privately owned or controlled enterprises.

An example of privatisation is the transfer from the public to the private sector, by way of contracting out all or part of a service, usually after a competitive tendering process. The local authority retains control through a contract and can set service standards and prices. Examples include maintenance and cleaning work, catering contracts, and professional services, such as architectural, valuation, financial and administrative services (Hollis & Plokker, 1995 : 43).

Another prominent theme which has emerged in the local government arena, and which is perceived as a form of decentralisation, is that of an “enabling council”. Local authorities are reassessing the make-up of their “core” functions and redistributing the tasks of providing services across a broader range of bodies, that is, public, private and voluntary. The challenge of the enabling authority is to ensure that the community is provided with the services it needs, irrespective of which sector actually delivers the services (Hollis & Plokker, 1995 : 46).

Privatisation or commercialisation, therefore, involves the transfer of functions from, for example, national or local governments to voluntary organisations or private enterprises as well as the enabling-facilitating function.

In Table 2.1 a comparison is drawn between the various forms of decentralisation, namely, deconcentration, delegation, devolution and privatisation.



**Table 2.1 : Forms of Decentralisation**

	<b>DECONCENTRATION</b>	<b>DELEGATION</b>	<b>DEVOLUTION</b>	<b>PRIVATISATION</b>
<b>Transfer of function to</b>	Lower level within ministry or field agency	Agency or organisation outside of Central Government	Lower level - regional or local	Voluntary organisations or private enterprises Enabling (facilitating)
<b>Type of responsibility</b>	Administrative – shifting of work load	Managerial – defined function	Political - granted or reserved functions	Physical delivery - functions or services
<b>Control by central government</b>	Direct - some discretion within set parameters	Indirect	Supervisory	Own
<b>Authority</b>	Central	Central	Own	Own

In the ensuing subsection some of the values of decentralisation will be addressed.

## **2.2.4 VALUES OF DECENTRALISATION**

There are a variety of important values which are related to the presence of a decentralised political structure, namely, responsiveness and accountability, policy diversity, political participation and countervailing power.

### **2.2.4.1 Responsiveness and Accountability**

Wolman (1990 : 32) states that decentralisation, by placing government closer to the people, fosters greater responsiveness of policy-makers to the will of the citizenry which results in a closer congruence between public preferences and public policy. This is not only because decision-makers in decentralised units are likely to be more knowledgeable about and attuned to the needs of their area than are centralised national government decision-makers, but also because decentralisation permits these decision-makers to be held directly accountable to the local citizenry through local elections.

Devas (1997 : 352), in concurring with the foregoing, writes that the conventional concept of decentralisation has been the transfer of powers and responsibilities to elected local governments which exercise a significant



measure of local autonomy. The arguments for this relate to responsiveness and accountability; that local governments are closer to the citizens; and are thus better able to make choices that reflect the needs and priorities in their area of jurisdiction than is a remote central government; and that it is easier to hold local elected representatives and officials accountable for decisions.

Thus, the decentralisation of decision-making powers to local government promotes one of the fundamental principles of democracy, namely, responsiveness and accountability. If the central or local governments are not responsive to the needs of the populace, they still will be held or are accountable.

#### **2.2.4.2 Policy Diversity**

According to Wolman (1990 : 33) decentralised structures may be favoured because they promote diversity in public policies. Policy diversity, in turn, may be valued for either of two reasons.

Firstly, the existence of policy diversity among sub-national governments provides the necessary conditions for the public-choice mechanism and assures that citizens have a wide variety of tax and service packages to consider in deciding where to reside. Policy diversity implies that standards of service and tax burdens for citizens will be unequal, that is, will vary according to where they live. Thus, two citizens of the same country with exactly the same tax and service package preferences will receive different levels of service and tax burdens depending on where they live.

Secondly, policy diversity is a contributor to and promoter of innovation. Decentralisation provides the opportunity for experimentation with policy innovations by sub-national governments. Rather than one uniform centrally imposed policy, decentralisation will result in a variety of policy approaches among sub-national units. The result is a form of natural experiment with the more successful policies ultimately being adopted by other sub-national units or even the national government.



Smith (1985 : 4), in concurring with the first reason, writes that market models of local decision-making see decentralisation as a means of expanding the scope of consumer choice between public services. Residential locational choice contributes to the realisation of individual values and collective welfare.

Rondinelli (1981 : 136), in agreeing with the second reason, states that decentralisation leads to more flexible, innovative and creative administration. Regional and local units have potentially greater opportunities to test innovations and to experiment with new policies and programmes in selected areas without having to justify them for the whole country. If the experiments fail, their impacts are limited to small jurisdictions; if they succeed, preconditions for their success can be tested or created for replication in other areas of the country.

Thus, the decentralisation of decision-making contributes to the expansion of consumer or community choice as well as to innovative or creative thinking at the regional or local level.

#### **2.2.4.3 Political Participation**

Gildenhuys *et al* (1991 : 95) state that decentralisation secures justice in the application of democracy and creates a better opportunity for direct voters' participation, through representation on regional and local units and through public meetings and referenda, in the policy-making and decision-making processes. According to Rondinelli (1981 : 136) a decentralised government structure facilitates participation of citizens and the exchange of information about local needs and channel political demands from the local community to national ministries.

Wolman (1990 : 34) adds that decentralisation is desirable, because by devolving decision-making to local levels, higher levels of interest and participation in local government result, thus anchoring citizens to the political system and enhancing democratic values. Decentralisation also encourages political education and debate, prerequisites for the effective functioning of democracy, by providing the opportunity for citizens at the local level to define,



discuss, debate and decide upon, through a political process, the problems facing their area. Decentralisation further provides a mechanism for the development and training of political leaders, both elected and appointed, a recruitment pool and training ground for advancement to higher-level and national political office.

In concurring with the foregoing (Smith, 1985 : 5) writes that decentralisation brings government closer to the people, provides for better services to the consumers, promotes liberty, equality and welfare, and provides a training ground for citizen participation and political leadership, both local and national.

Therefore, it can be stated that the decentralisation of decision-making promotes public participation, encourages political education and debate and, in so doing, develops political leaders.

#### **2.2.4.4 Countervailing Power**

Decentralised structures are sometimes advocated as a means of protecting democracy through assuring countervailing centres of power and influence in a plural society. This is essentially the Madisonian argument for the federal system in the United States and, also one of the main reasons why post-war Germany and Austria were reconstructed as federal systems. But as this suggests, the critical factor is not decentralisation of political decision-making to local governments so that these governments can control local policy, but the entire set of formal and informal constitutional arrangements which define the relationship of national and sub-national governments (Wolman, 1990 : 35).

With regard to countervailing power in developing countries, Rondinelli (1981 : 136) states that, by creating alternative means of decision-making, decentralisation can off-set the influence or control over development activities, by the entrenched local elites who are often unsympathetic to national development policies and insensitive to the needs of the poorer groups in rural communities.



According to Wolman (1990 : 35) the countervailing power argument, while not completely unrelated to questions of policy centralisation/decentralisation, is thus more concerned with how central government behaviour can be controlled rather than with how much discretion over local policy is available to local government.

Thus, it can be stated that decentralised structures or decision-making mechanisms can be utilised to protect democracy and to counter or influence the behaviour of central government or the élites.

"end"

## **2.3 DEVELOPED AND DEVELOPING COUNTRIES**

It is necessary to determine whether the countries selected for this dissertation can be classified as developed or developing as this has a bearing on the political system, local political structures, functions and finance prevalent in these countries.

In this subsection some of the key characteristics of countries in the so-called first, second and third worlds will be addressed.

However, for the purposes of this dissertation, the first world will be referred to as developed or industrialised and the remainder as developing or lesser developed, that is, at the conclusion of this subsection.

### **2.3.1 FIRST WORLD : MAJORITARIAN AND CONSOCIATIONAL DEMOCRACIES**

The countries of the First World are basically capitalist in orientation and are a product of an early transition to societies based on market relations. The creation of a liberal political order against feudal privilege and absolute monarchy was a key stage in the establishment of a market society, to be followed later by democratisation. In the West capitalism and the liberal political order has proved triumphant (Hague & Harrop, 1987 : 48).

Finer (1972 : 66) adds that there are four characteristic features of liberal-democracy:



Firstly, all governments of this type contain a representative organ in an elected legislature, and in some cases too, an elected head of state or president.

Secondly, accountable to these representative organs, there is a stabilising and expert organ, both advising it and executing its instructions, which is the executive.

Thirdly, there exists a system of social and economic checks and balances, a network of centres of private power which acts as a brake upon the activity of government.

Fourthly, this system of social and economic checks and balances is paralleled and assisted by a system of political checks and balances.

### **2.3.2 SECOND WORLD : COMMUNIST PARTY STATES**

Hague & Harrop (1987 : 48) state that in the Second World, the liberal critique of absolutism proved more effective at undermining the traditional order of society than at supplanting it. Absolutist regimes in the former Russia and China proved unable to cope with the strains of social change and of conflicts with more modern nation-states. They succumbed to revolutionary communist movements which accelerated the drive for economic modernity under centralised, authoritarian direction.

### **2.3.3 THIRD WORLD : OLIGARCHIC, MILITARY AND MOBILISING REGIMES**

According to Hague & Harrop (1987 : 48) at the beginning of the century, the major European nations dominated the globe, politically, militarily and economically. Although Latin America had acquired independence from Spain and Portugal in the nineteenth century, most of Asia and Africa remained in European control. With the unravelling of these empires, the nation-state became diffused across the globe, at least as a model to be emulated.

Located mainly in southern latitudes, the post-colonial societies of the Third World are largely agrarian with a small industrial base. They remain closely



enmeshed in economic relationships with the powerful industrialised nations to the north. The common feature of Third World politics is that political rulers face tasks of enormous magnitude supported only by fragile and unstable domestic political institutions (Hague & Harrop, 1987 : 49).

Table 2.2 depicts the classification of governments into industrialised and lesser developed as muted by Hague & Harrop (1987 : 67).

**Table 2.2: Classification of Governments**

INDUSTRIALISED	LESSER DEVELOPED			
Liberal democracies	Communist party states	Competitive oligarchies	Military regimes	Populist-mobilising regimes
Some popular control over limited, pluralistic and constitutional governments. Main variants are majoritarian and consociational democracies.	A single dominant party directs society. Transformative ideology requires controlled mass participation but the party is often managerial in practice.	Liberal and conservative elements of an aristocratic elite compete for power though neither threatens the <i>status quo</i> . Little mass involvement, what there is, is manipulated by the elite.	Government is directly or indirectly controlled by the armed forces. Negligible mass involvement. An administrative ruling style and no long-term legitimacy preclude significant change.	Ex-colonies with nationalist, modernising ideology that obscures the regime's use of patronage and alliances with traditional leaders to maintain itself. The single party is often weak and dominated by the hero-founder.

Hague & Harrop (1987 : 60) state that regardless of the form of government, certain constraints stand out in the politics of developing countries:

Firstly, patron-client relationships are fundamental to politics. The basis of politics, especially at local level, is networks of personal ties and obligations;

Secondly, there is a pervasive phenomenon of corruption, that is, the use of public office or authority for personal enrichment; and

Thirdly, the political and administrative leaders of developing countries are often strikingly Westernised in education, outlook and expectations.

Mahler (1995 : 48) states that it is no coincidence that most of the developing countries were subjects of European colonialism, and most of the developed nations were the colonial powers themselves. Generally speaking, the



significance of the system of colonialism can be found in its lingering effects on the political and economic structures of developing countries and on the psyche of colonised peoples. Pinkey (1994 : 3) agrees that most of the developing countries were colonies of European powers before they attempted to develop democratic institutions.

Flowing from the foregoing it can be stated that Britain and the United States of America are developed countries and that Botswana and Nigeria conform with the characteristics of developing countries.

Further, it can be stated that most developed countries were colonial powers and have a democratic political system with a strong economic base, whilst most of the developing countries were the subjects of the colonial powers, have some form of authoritarian government and whose economies are generally fragile.

Various aspects which impact on the political systems of countries will be addressed in the following section.

## **2.4 POLITICAL SYSTEMS**

In the ensuing subsections the purpose of constitutions, systems of government and intergovernmental relations will be dealt with.

### **2.4.1 PURPOSE OF CONSTITUTIONS**

Constitutions are codes of rules which aspire to regulate the allocation of functions, powers and duties among the various agencies and officers of government, and define the relationship between these and the public (Mahler, 1995 : 28).

Mahler (1995 : 28-29) attributes the following functions to the governmental structures, known as constitutions, whether they are written or unwritten, whether they are followed or not, wherever they may be found:

- They serve as an expression of ideology and philosophy. This kind of expression is usually found in the preamble to the constitution.
- They serve as an expression of the basic laws of the government. These laws play a central role in the government and are often so special that they can be modified or replaced only through amendment procedures.
- They provide organisational frameworks for governments. It is common for constitutions to contain several sections, for example, the legislative, executive and judicial branches of government. Gildenhuys *et al* (1991 : 26) add that whatever their form, nearly all constitutions contain the plan according to which the various units of government are organised, the range of powers allocated to each unit of government, and the way in which these powers are to be exercised.
- They usually include the levels of government of the political system, that is, how many levels of government there will be and whether nations will be federal, unitary or consociative. They often describe what powers are included and excluded from the national government.
- They usually contain an amendment clause. Constitutions usually have to be amended or modified at some stage due to changing circumstances, for example, a new government may decide to introduce a federal system or to abolish the intermediate level of government.

Therefore, all constitutions, whether written or unwritten, lay down the framework within which the various organs and officers of government in a country must operate, as well as the duties, powers and relationships of such functional units.

#### **2.4.2 SYSTEMS OF GOVERNMENT**

In the subsections to follow three primary systems or forms of government found in the world, namely, unitary, federal and consociation will be described with the view to establishing their key characteristics.



### 2.4.2.1 Unitary System

A unitary system usually comprises one level of government above the local level. In Britain, for example, although there are city and county governments, the real power to make political decisions resides with parliament, and parliament has the right to control whatever powers the cities or counties might exercise. Parliament has the power to grant the cities or counties more influence, or to take away policy jurisdiction they may already control (Mahler, 1995 : 30).

Hague & Harrop (1987 : 176) state that in a unitary state sub-national governments, whether regional or local, may make policy as well as administer it, but they do so at the pleasure of the national government.

According to Craythorne (1990 : 33) a unitary state, which is sometimes described as the Westminster system or model, consists of a number of distinct elements, namely:

- universal elections in which the party which captures the most constituencies forms the government of the day;
- a head of state (sovereign or president), that is, head of the executive and the legislature;
- a chief executive or prime minister, that is, the leader of the majority party;
- a parliament, which may consist of one or two houses, and which is the supreme or sovereign legislative body of the state and all other legislative bodies and their legislation are subordinate to the parliament;
- a cabinet as the head of the executive and legislative branches, and which is accountable to parliament;
- a civil service which carries out the will of the executive and the legislature;
- an independent judiciary, but which does not have the power to rule on the validity of laws passed by the parliament; and
- the idea of equality of all before the law, and the rule of law.

According to Gildenhuys *et al* (1991 : 29) the advantages of unionism are that:



- a great deal of unity and solidarity can be reached;
- it is cheaper because duplication is eliminated;
- confusion in administrative matters is eliminated; and
- because sectional interests are not emphasised by the constitution, national issues may be discussed in terms of national merits.

Gildenhuys *et al* (1991 : 30) state that the most important disadvantages of unionism are that:

- local autonomy is destroyed;
- minority groups may be engulfed and their interests ignored;
- local problems may be overlooked; and
- it creates a real opportunity for the government to become bureaucratic.

Thus, a unitary state comprises one central authority which possesses legislative power, namely, the parliament. The powers of the other levels of government are only those which have been either devolved or delegated by the central government.

#### **2.4.2.2 Federal System**

In a federal system there are two levels of government above the local level, each enjoying autonomy with regard to certain functions. For example, the central government may have the sole authority to coin money, raise an army or declare war, and foreign affairs, whilst the intermediate level of government, such as states, provinces, cantons or länder, may have sole authority to regulate education, criminal or civil law, local institutional structures and economic development. Federalism allows for both the expression of regional goals and a co-ordinated expression of national goals (Mahler, 1995 : 31 and Hollis & Plokker, 1995 : 84).

According to Hague & Harrop (1987 : 169-170) federalism is a system of government in which legal sovereignty is shared between the central and the other levels of government. Each level or sphere of government, central and state, has constitutional authority to make some decisions independently of the



other, even though in practice there is no marked interdependence between the levels of government. Citizens of a federal level remain subject to the authority of both the central and the state governments, each of which impacts directly on the citizen.

Craythorne (1990 : 33-34) writes that a federal constitution comprises the following principal characteristics:

- a number of autonomous states which agree to confer certain powers on a federal government;
- there is a territorial division of authority between the formerly autonomous sets of institutions, one national and the other state;
- the constitution is written;
- the legislative body is bi-cameral, that is, consisting of two houses;
- all constituent states are entitled to be involved in the process of constitutional amendment;
- the central government tends to be decentralised because the object of a federal system is to limit central government control, to guarantee common law procedures and to move away from majoritarianism;
- the judiciary resolves conflicts between governmental authorities and upholds the supremacy of the constitution; and
- there is a bill of rights.

Gildenhuys *et al* (1991 : 30) write that the advantages of federalism are that it:

- offers a solution to the problem of small states who wish to integrate or co-operate but who do not wish to lose their identity;
- provides for the protection of minority interests;
- provides a method through which the various groups can co-operate without fear of domination by other groups; and
- brings the affairs of government closer towards the individual, thereby arousing his/her interest and stimulating his/her active participation, that is, as a result of decentralisation.



According to Gildenhuis *et al* (1991 : 30) the most important disadvantages of federalism are:

- that the large degree of autonomy given to member units within a federal state could lead to movements of secession, as experienced in many federations all over the world, for example, Canada and Nigeria; and
- that the very nature of a federation could lead to a clash of interest between those members seeking greater centralisation and those seeking greater decentralisation.

Thus, in a federal state the powers of the central government are clearly defined, the remainder going to the states who have the sole authority over these functions or powers. In other words, the central and state governments have original legislative powers and enjoy absolute discretion within their own spheres of government. In a federation local government is established and controlled by the states and, as such, are dependent on state laws for their status, rights and privileges.

#### **2.4.2.3 Consociation**

Consociation is a form of democracy that is found in societies which are characterised by divisions. The basis of this system is that political co-operation exists between the leaders of the various groups, in order to counteract the conflict and disintegration inherent in most of these societies. In practice, joint decisions are made by the leaders of the various groups regarding matters of national interest. However, it is an essential characteristic of a consociation that group interests continue to exist in spite of joint decision-making (Gildenhuis *et al*, 1991 : 33).

Craythorne (1990 : 34), in elaborating, writes that consociationalism can be approached from three different, though related, perspectives, namely, as a pattern of social structure which emphasises the degree of religious, ideological, cultural or language segmentation in a society; as a pattern of elite behaviour, emphasising the process of decision-making and conflict regulation; and as an



underlying characteristic of the political culture arising from historical circumstances.

The four general characteristics of consociationalism are outlined hereunder.

#### **2.4.2.3.1 Grand Coalition**

Government by a grand coalition of all the significant segments within a plural society is the most important characteristic of consociative democracy. The function of a grand coalition is that broad agreement between the members of a society is preferable to singular majority rule. It is essential, especially in deeply divided societies, that as many as possible of the segments be included in government (Gildenhuis *et al*, 1991 : 34).

#### **2.4.2.3.2 Mutual Veto**

The availability of the mutual veto ensures that the groups participating in government, including minorities, are able to influence the decision-making process. The veto can be seen either as a mechanism to ensure that there is unanimity amongst the groups present on all decisions or as a device enabling minorities to prevent decisions being taken which may adversely affect their essential interests (Craythorne, 1990 : 34).

#### **2.4.2.3.3 Proportionality**

Gildenhuis *et al* (1991 : 35) write that in a consociative democracy the principles of proportionality are used as a method for the division of financial resources and the appointment of public officials between the various groups of society, which is a significant departure from the principles of majority rule, that is, "winner-takes-all". Craythorne (1990 : 35) states that proportionalism is also used in relation to electoral systems which do not operate on a majoritarian basis, but in consociational theory it is extended to the decision-making process as a whole. At the electoral level, proportionality ensures representation of all parties in joint legislative authorities in direct proportion to their electoral support.



#### **2.4.2.3.4 Segmental Autonomy**

Segmental autonomy entails minority rule within an entity, and is the logical corollary of the grand coalition principle. On all matters of common interest, the decisions are taken in consultation with all the other segments of the plural society in terms of the principles of government by grand coalition. On all other matters, however, the divisions and their execution rest with the particular separate segments (Craythorne, 1990 : 35 and Gildenhuys *et al*, 1991 : 35).

Thus, consociation is a form of democratic government that is found in countries where there are significant differences in terms of culture, language, ethnicity, religion and ideology, for example, Belgium.

### **2.4.3 INTERGOVERNMENTAL RELATIONS**

In this subsection a number of factors which influence the relationship between local and central government will be addressed.

#### **2.4.3.1 Political Ideology**

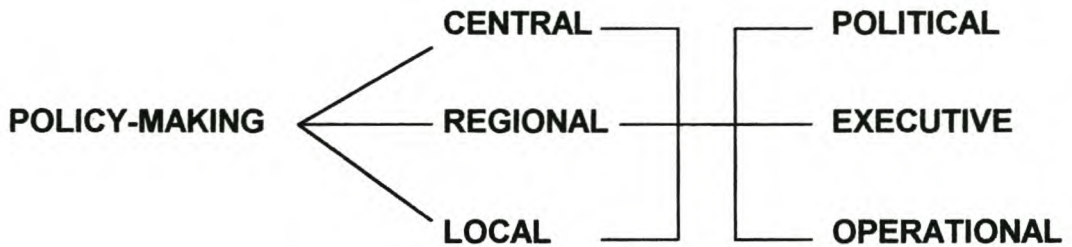
The ideology underlying a country's political system has great influence on the structure and functioning of its system of local government and administration. The government will develop a system in accordance with the basic ideological principles which it has adopted, and which are therefore likely to be reflected in regional and local institutions and their relationship with central government (Leemans, 1970 : 31).

Gildenhuys *et al* (1991 : 166), in concurring, add that the question of political ideology of a particular government, especially central government institutions in a unitary state, influences access to public decision-making structures at the lower levels. The most important manifestation of political ideology is seen in the policy-making process at the lower levels of government. The basis of policy is tied to the political policy which is seen as a precursor to executive and finally operational policy, which respectively stand in a vertical relationship with each other.



Figure 2.1 depicts the policy-making process at the various levels of government (Gildenhuys, 1991 : 166).

**Figure 2.1 : Policy-making**



Therefore, the political ideology of the government in power has a direct impact on the role and functions of local government and the relationship between the various levels of government, for example, by the institution of laws, the provisions of which “conservative” or “liberal” local government units have to carry out which are in conflict with their standpoints.

#### **2.4.3.2 Authority and Power**

In a unitary system governmental relations are mostly the result of enforced duties as prescribed by the constitution which controls lower authorities by virtue of the centralised control of power and authority. In a federal system, however, the formal stipulations in the constitution define the authority of governmental institutions, and governmental relations are mostly a result of the individual benefit accrued through co-operation (Gildenhuys *et al*, 1991 : 165).

Craythorne (1990 : 38) adds that most legislation tends to set out principles, leaving all the detail to be stated in regulations. Where regulations are made by central government, they are usually administered by public servants, that is, in a unitary system. This gives public servants a great deal of power, including in many cases the power to change local decisions or even to set them aside.

Thus, it can be stated that the system of government has a direct bearing on the autonomy and relationship that exists between the central and other levels of government, that is, centralised versus decentralised authority and power.



### **2.4.3.3 Functional Differences**

The effect of functional differences is that there is of necessity a relationship between central, provinces or states and local governments at the service level, with the former requesting or requiring municipal services for its projects. The functional relationship is likely to enter into conflict if local authorities are required to provide, and possibly to fund facilities and services which have traditionally been provided and funded by the central government without the necessary funds being made available to local government. Such a policy would diminish local self government as the central government and its public service is unlikely to tolerate contrary or differing views. Furthermore, local autonomy is likely to be severely curtailed as the central government will wish to impose its objectives and standards over those of the local communities (Craythorne, 1990 : 40).

Therefore, the imposition of functions on local government which have previously been the domain of central government and, in particular if not accompanied by the necessary funding, will lead to strained relations between these two levels of government.

### **2.4.3.4 Financial Resources**

One of the most important mechanisms of the central government to establish continued governmental relations is coupled to the question of budgetary and fiscal responsibilities and to make monetary policy. The central government in most cases keeps control over the amount of money which is allocated to regional and local governments in order to subsidise certain key areas or regions earmarked for development, but local authorities are also restricted to the extent to which they can borrow money on the open market. The central treasury sets a limit to each local authority's borrowing capacity, which is usually based on the authority's financial situation or capability to pay its debt. In many cases inter-governmental relations between authorities within and between levels of government are based purely on financial relations (Gildenhuys *et al*, 1991 : 167).



Thus, in most developed and developing countries the central government imposes monetary controls on the lower levels of government. The form or type of relationship which exists between central and local governments is influenced by the constitutional relationships and the latter's capability to repay debt and dependence on funds from the former for its existence.

#### **2.4.3.5 Demographic and Geographic Conditions**

Leemans (1990 : 35) is of the opinion that considerable social mobility calls for changes in local government structures and also tends to diminish the cleavage between communities. In developed countries, fundamental changes have taken place in the lives of local communities. In the distant past, few people travelled beyond the borders of their city or village. This limitation to the scale of human and social life still applies for most inhabitants of developing countries, and even for many people living in the vast rural areas of some developed countries.

According to Leemans (1970 : 34) geographic conditions have often been cited as pertinent to the determination of the system and structure of local government and of the boundaries of local government units. Geographic isolation affects the relationship between the national capital and the remote hinterland and consequently the government structure, tending as it does to weaken contact between the central and the local focus of government and administration. Geographic conditions can also fashion barriers to the adequate communications prerequisite to the effective functioning of local government. Citizens should have easy access to local administrations and to public services, while members of local councils should not be so remote from the council chamber as to inhibit their participation in council meetings.

Therefore, the demographic and geographic conditions prevalent in both developed and developing countries have an impact on the system and structure of local government as well as the relationship between the various levels or spheres of government.



The factors which influence intergovernmental relations in turn have an impact on local political structures.

## **2.5 LOCAL POLITICAL STRUCTURES**

In this section the types of local government, characteristics of strong and weak tiers of local government and models of local government will be addressed.

### **2.5.1 TYPES OF LOCAL GOVERNMENT**

This subsection will deal with the types of local government according to their geographic and functional bases respectively.

As the geographical subdivisions of a sovereign nation or quasi-sovereign province, local authorities provide public services in a particular area. Local authorities generally have the following characteristics, namely, a defined area, a population, a continuing organisation, the authority to undertake and the power to carry out public services, the ability to sue and be sued and to enter into contracts, to collect revenue and to determine a budget (Humes & Martin, 1969 : 27-28).

Representative local authorities are those which have one or more legally constituted representative governing organs. In order to be representative, all or most of the members of these organs, for example, councils and committees, must be elected directly or indirectly by the local citizens and to be governing, these organs must have some decision-making authority. Local representative authorities differ from local non-representative authorities in that the latter either do not have representative organs or their representative organs do not have any authority to govern (Humes & Martin, 1969 : 28-29).

Gildenhuys *et al* (1991 : 126) agree that many basic units, that is, rural and urban local authorities, have a significant degree of representative government, while in others the representative organs are little more than a façade. The representative organs of some are elected, while others are appointed by some



higher authority. Many are general-purpose, having the responsibility for a whole range of services, while others carry out only limited services.

It is possible to identify four types of local governments using distinctions between general-purpose and special-purpose units and between representative and non-representative units. General-purpose local authorities perform all or most of the local functions, whilst special-purpose authorities perform one or a few local functions. Representative authorities are elected by the local community while non-representative authorities are not (Barlow, 1991 : 6).

Table 2.3 depicts the types of local authorities which have been described in the foregoing paragraphs (Humes & Martin, 1969 : 28).

**Table 2.3: Types of Local Authorities**

Conditions	General-Purpose	Single- or Special-Purpose
Representative	Local representative authorities, for example, French municipalities and provinces and British municipalities and counties.	Local special-purpose representative authorities, for example, French inter-municipal bodies and United States School Boards.
Non-representative	Local non-representative authorities, for example, French districts or sub-regions.	Local special-purpose non-representative authorities, for example, Nigerian Joint Boards.

Local government is an integral part of the total government system of each country. As the typology makes evident, local government institutions cannot always be distinguished from those of central government, because in practice the institutions are similar. The pattern of geographic separation provides the framework wherein the two types of local representative and local non-representative authorities can exist (Humes, 1969 : 31).



### 2.5.1.1 Geographic Classification of Local Authorities

Humes & Martin (1969 : 63) and Gildenhuys *et al* (1991 : 127) state that in many countries the number of tiers in the rural areas exceeds that in the urban areas. This is particularly marked where the degree of development between the different areas varies. This is also due to the tendency of the rural areas to be smaller in population than their urban counterparts and to have fewer financial resources, political leadership and skilled administrators.

The number of inhabitants is important for municipalities. In order to meet the ever increasing and more complex demands, local authorities should be large enough to maintain an adequate staff and facilities. On the other hand, the local authorities should also be small enough to preserve the local community atmosphere and spirit in which each citizen has an opportunity to be politically effective. The size of non-representative authorities is relatively less important, for these units are closely co-ordinated in the normal process of administration (Humes & Martin, 1969 : 67).

However, the dichotomy between desirable administrative size and sociological size should no longer be a problem in developed countries. The more frequent use of modern services and technology undermine the claims of each individual centre of population to be the natural centre of a local community, especially in the developed countries. The municipal offices need no longer be within easy walking distance to be close and accessible to the local inhabitants (Humes & Martin, 1969 : 71).

The pattern of geographical subdivisions provides a framework within which the two different types of government, namely, local representative and local non-representative, may be practised. In most developed countries, particularly in Europe, all units of all tiers of local government have some kind of representative organ. In developing countries, including most of those in Africa and Asia, not all the local units have representative government, that is, councils (Humes & Martin, 1969 : 64).



Barlow (1991 : 7) adds that representative governments foster democracy and preserve accountability. Only general-purpose representative governments are aware of, and responsive to both the community and geographic area, and have the capacity to govern localities as opposed to simply administering, servicing or representing them. Special or single-purpose local authorities are prone to lose sight of either community or area (or both) and are more likely to espouse such values as managerialism, functionalism and sectionalism.

Thus, it can be stated that there are four types of local authorities according to geographical base who are responsible for the delivery of services within a particular area, namely, general-purpose representative and non-representative as well as special-purpose representative and non-representative local authorities. It is important that there is a balance between the size of a geographic base of a local authority and the financial capacity and wishes of the inhabitants of a specific geographic area in order to optimise the objectives and values of decentralisation.

#### **2.5.1.2 Functional Classification of Local Authorities**

According to their functional base, local authorities may be classified in two main categories, namely, multi- or general-purpose and single or special-purpose local authorities. General-purpose local authorities deliver a wide range of diversified public services to their communities within one demarcated area of jurisdiction, which requires a wide variety of professions combined with well balanced laypersons to serve as councillors. Special-purpose local authorities on the other hand provide one or a few services, such as health, water and education. These authorities have their own staff, budgets, and defined areas of jurisdiction, which may cover the jurisdiction or part of one or more general-purpose local authorities (Gildenhuys *et al*, 1991 : 127-128 and Humes & Martin, 1969 : 73-74).

Special-purpose authorities are established where central or provincial governments have not wished to confer responsibility on a general-purpose local authority or where such authorities do not exist. Special-purpose authorities cannot govern their areas of jurisdiction in the sense of determining



priorities or making trade-offs between a range of services for the good of the community as a whole. These authorities are generally dependent on a small range of professionals and their areas are often determined on grounds of functional efficiency and not coterminous with other local authority boundaries (Norton, 1994 : 43-44).

Humes & Martin (1969 : 73) add that special-purpose local authorities are a medium for undertaking many of the local services which the general-purpose local authorities are unable to handle adequately due to one or more limitations, for example, financial and human resources. The use of these authorities, however, sometimes creates a muddle of overlapping units superimposed on the overall pattern of general-purpose units of local government.

Thus, according to their functional base, local authorities can be categorised as general-purpose and special-purpose in that the former type of local authority delivers a wide range of services within a defined area of jurisdiction, whilst the latter delivers one or more services in areas of jurisdiction which are not necessarily the same as that of their general-purpose counterparts. The creation of special-purpose authorities should, however, be controlled as they tend to make the pattern of government more complex and confusing to the citizens, and the interests and needs of individual localities may become neglected.

Within the foregoing types of authorities it can be established whether they form a strong or weak sphere of local government.

## **2.5.2 CHARACTERISTICS OF STRONG AND WEAK SPHERES**

**For the purposes of this dissertation the national, provincial and local governments will be referred to as levels or spheres of government and as tiers within the context of the local sphere of government.**

According to Hollis & Plokker (1995 : 82) no one factor completely determines the relative strength of any one sphere or any single local government unit, nor is it possible to evaluate these factors in numerical terms. The demands,



interests and opinions of a strong sphere will be taken seriously at higher levels of government, making it a significant player in the constitutional life of a country. Weak spheres may have to rely on co-operation with other spheres or agencies to make their views known and their influence felt.

Table 2.4 gives an indication of the factors which can determine the relative strength of a sub-national sphere of government (Hollis & Plokker, 1995 : 82).

**Table 2.4 : Characteristics of Strong and Weak Spheres**

STRONG SPHERE	WEAK SPHERE
Extensive powers and responsibilities, perhaps including adoption of legislation.	Limited, unclear or concurrent powers and responsibilities, for example, subject to approval or <i>ad hoc</i> delineation by higher tier.
Considerable influence at higher levels of government, for example, through direct representation.	Negligible influence at higher levels. Few possibilities for having interests represented or taken into consideration.
Considerable financial resources, either through sizeable grants from higher authorities or extensive powers of local taxation, and autonomy in allocating expenditures.	Heavily dependent on higher levels for financial resources, few powers of local taxation, little autonomy in allocating expenditures.
Important in terms of area, population, economic development or socio-cultural significance, for example, industrial centre, capital city.	Unimportant relative to other tiers in terms of area, population, economic development or socio-cultural significance.
Strong identity in terms of local democratic functions and accountability for service delivery, for example, active population, support for local government activities.	Weak identity in terms of democratic functions and accountability for service delivery, for example, lack of popular participation in and influence on local government activities.

Therefore, in the context of the foregoing, it can be stated that the stronger the form of decentralisation, for example, devolution, the stronger the sphere of local government and *vice versa*.

The characteristics of a sphere of local government are likely to change over time and may change quickly also in times of intensive social, economic and political developments. In microcosm, for example, a local authority that finds itself in a strong financial position relative to others may seek more powers and responsibilities. On the other hand, a local authority that has developed too many weak features, such as a rural village where the population is decreasing



as its youth moves to the cities, may be incapable of sustaining itself in the long term (Hollis & Plokker, 1995 : 83).

In countries with a strong local sphere of representative government or where there are large local government cities or units, the organisation tends to become bureaucratic and distanced from the electorate, although it has certainly played a role in the enactment of laws and the carrying through of reforms, for example, metropolitan governments. A principle aim of decentralised reform in several European countries was to adapt local government structures to the new needs of time when local authorities were assuming more and more functions in the social and economic fields, such as public health, education, public utilities and public transport (Leemans, 1970 : 23).

Thus, it can be stated that a strong sphere of local government will be taken seriously by the higher levels of government and consequently will play a significant part in any political dispensation of a country, whereas a weak local sphere will be a relatively insignificant roleplayer which will have to rely on co-operation to make its standpoints known.

In the ensuing subsection various models of local government in terms of strong and weak spheres under different systems or forms of government, will be addressed.

### **2.5.3 MODELS OF LOCAL GOVERNMENT**

Strong and weak spheres of government can be combined in a number of models (with strong and weak tiers) within the context of the major systems of government found in the world, namely, unitary, federal and consociation, which combinations can produce illustrative models of local government.

Table 2.5 depicts a number of models and their main characteristics.



**Table 2.5 : Combinations of Strong and Weak Spheres**

SPHERE	MODEL			
	Centralised	Federal	Weak Unitary	Strong Unitary
National	S	W	W	S
Regional	W	S	S	W
Municipal	W	S	W	S

W = Weak and S = Strong

The national sphere of government has been included in order to show that the national and sub-national spheres of government are interdependent. By giving more power and responsibilities to one sphere, or certain responsibilities within that sphere, the power and authority of another level or sphere must necessarily decrease. When decentralised or any reforms are introduced in a centralised system of government such as existed in the former Soviet Union, it is important to realise that almost any changes will necessarily involve a weakening of the position of the national government (Hollis & Plokker, 1995 : 83).

Each of the models illustrated in Table 2.5 are discussed hereunder. These models show the relative strength of the spheres of government. **The models can be applied holistically, that is, in a macro context between the various spheres of government or in a micro context within the local sphere of government, that is, the tiers within the local level or sphere of government.**

### 2.5.3.1 Centralised Model

This model is a simplified representation of the former Soviet system, where power was strongly centralised at the national level, with regions and municipalities in hierarchical subordination to the national ministries and agencies. Even though legislation has been introduced granting extensive powers and responsibilities to the lower spheres, the actual power of local government in terms of control over financial resources, influence at high spheres or external accountability and controls, remains weak (Hollis & Plokker, 1995 : 84).



Hollis & Plokker (1995 : 84) state that, although it may be expedient for short term action, the centralised model is undesirable as a future model because it results in a democratic deficit, the lower spheres of government do not have democratic credibility, direct accountability to the electorate, or the ability to act as effective checks and balances on the power vested in the national government. As the population and local authorities begin to press for democratic decentralised reforms and local autonomy, the inadequacies of such a model in a democratic system become evident.

Leemans (1970 : 56) describes the centralised model as the fused or single hierarchy model in which the central government agencies and representative local governments are merged into single local government and administrative units. This model or system of government entails the great risk that central government agents will dominate local governments, thus, reducing the local representative element to total subordination. In many developing countries, however, where the local representative element is often too weak and inexperienced to assume a leading role in public policy-making and administration, this model seems to be preferred.

Therefore, it can be stated that the centralised model would be prevalent in mostly developing countries with a pure unitary system of government in whose constitutions the rights and status of the lower spheres of government are usually not enshrined. In other words, the national government is vested with extensive power and authority and consequently the lower spheres of government are weak.

In applying the centralised model to the local sphere of government, the upper tier would be dominant and would exercise most of the powers and functions of local government. The lower tier/s are weak, have limited powers and functions, lack control over financial resources, do not have democratic credibility, and are not directly accountable to the electorate. This model, in effect, does not comply with the objectives and values of decentralisation.



### 2.5.3.2 Federal Model

The federal model is characterised by a high degree of regional autonomy, which means that the national government is relatively weaker. The regions, provinces or states are represented at the national sphere, for example, through a bicameral parliament or a dual representation of delegates at regional and national level. This model is broadly comparable to the structure of government in Germany and the United States of America (Hollis & Plokker, 1995 : 84).

Hollis & Plokker (1995 : 84) continue that the lowest sphere of government, the municipality, has an important and active role to play, both as a focal point for community interests and as a provider of services. The main advantage of this model is that it allows the democratic function of local government to be developed and gives the regional sphere considerable freedom to run its own affairs. The main disadvantage is that it may encourage separatism, as the national government has less control over regional strategic issues, such as regional economic development and infrastructure. Moreover, local authorities can be too small to deliver certain services cost effectively and are sometimes forced to enter into joint agreements with their neighbouring authorities which, in turn, can reduce the accountability to the inhabitants for these services and the control of the local council over service providers.

Chandler (1993 : 140) writes that the Federal Constitution of the United States of America makes no reference to local government and, therefore, gives the states authority to manage their units of local government and administration, subject to remaining within the interpretations of the Federal Constitution. Norton (1994 : 395) adds that local governments are established by the constitution or legislation of the states in which they are situated in terms of which the citizens can, to varying degrees choose the form, status, rights and privileges of the local institutions. Thus, there are fifty different state systems of local government, each quite separate from the other forty-nine. A state can abolish or supersede a local authority, but in practice the law and politics place limits on the possibility.



Thus, the federal model would be found in developed and developing countries with a federal type system of government in which the states form a strong sphere of government which can exercise considerable power over municipalities. However, the local sphere of government is given the freedom to play an active and important role, in both as a focal point for community interests and as a provider of a variety of services, that is, a strong sphere of government.

Furthermore, this model could also be applied in countries within which there are strong divisions and who apply a consociative form of government where a strong regional sphere of government is a prerequisite.

Finally, in applying the federal model to the local sphere of government, the upper tier would be relatively weak in that it would have powers to carry out a limited number of functions which are of district or metropolitan-wide significance, for example, strategic and transport planning. On the other hand the lower tier/s which are closer to the communities would perform most of the local functions for which they would be directly accountable to their electorates as well as have the powers to raise and control their financial resources. This model complies with the objectives and values of decentralisation.

#### **2.5.3.3 Weak Unitary Model**

The weak unitary model provides for strong provinces or regions with a reduction of the role of national government, although this reduction is not as extensive as in the federal model. Typically, the regions are not represented directly at national level *via* a second chamber of parliament, as is the case in the federal systems of government found in Germany and the United States of America. The municipalities, on the other hand, have a minor role to play, acting mainly as consultative bodies for the regions in developing their policies (Hollis & Plokker, 1995 : 85).

According to Hollis & Plokker (1995 : 85) the European country which to an extent resembles this type of unitary model is France, where the many small communities often have strong identities but few resources. Most services, as



well as political lobbying at the national sphere of government are, therefore, provided by the regions. This model is, thus, identified mostly with unitary systems of government.

Gildenhuys *et al* (1991 : 129) state that the French system of local government is highly centralised, which has long been based on an uneasy alliance of elected officials, technical specialists in the field of service of ministries, and the direct representatives of the national government, namely, the prefects on the regional level. Humes & Martin (1969 : 534) concur that the control of local government by higher authorities in France is extensive. All council ordinances and decisions must be submitted to the prefect or sub-prefect at the regional level for examination as to legality before they can be put into effect.

It is concluded that this type of unitary model would be prevalent in either developed or developing countries with a unitary system of government, in which the national sphere is relatively weak, the regional sphere is strong and the local sphere of government weak.

In applying the weak unitary model to the local sphere of government, the upper and lower tiers would have limited powers, functions and financial resources, whilst the intermediate tier would form a strong tier in which the general-purpose local governments have substantial powers, functions and resources. Thus, the local governments on the first and third tiers have relatively little to be accountable for and be responsive to their electorates.

#### **2.5.3.4 Strong Unitary Model**

In smaller countries, such as the Netherlands or Sweden, there are generally three spheres of government, namely, national, regional and local. The dominant role is then reserved to the local sphere in the form of municipalities, who are the traditional strongholds of democracy in these countries. Regional governments act in close co-operation with national government on the implementation of national policies, such as economic development, urban planning and health care. In some countries, the regions would also be represented at the national level in a separate chamber. However, the regional



sphere is typically weak and tends to be associated with the national government rather than a platform for regional aspirations (Hollis & Plokker, 1995 : 86).

According to Hollis & Plokker (1995 : 87) at the local sphere, the disadvantage of this model is similar to that of the federal model in larger countries, in that with the advance of modern technology, the minimum population size for efficient delivery of local services, such as garbage disposal, water sanitation or electricity supply has become larger than the average municipality. Thus, in order to solve this problem municipalities are increasingly involved in complex co-operation agreements for the discharging of services. However, democratic control over these inter-municipal organisations has proved to be far from satisfactory and many countries are, therefore, testing solutions to address this issue ranging from elected boards for these services to enlarging the size of the municipalities.

However, on the other hand, the big advantage of the model is that it has strong historic roots and traditions, thereby enhancing responsiveness and accountability, political participation, nation building and democracy (Hollis & Plokker, 1995 : 87).

Thus, the strong unitary model would be prevalent mostly in small developed countries with unitary or federal type systems of government where the principles of democracy and the decentralisation of power play an important role.

Finally, in applying this model to the local sphere of government, the upper and lower tiers form strong tiers of general-purpose local governments who have extensive powers and functions for which they are responsible and accountable to their electorates. The municipalities on these tiers are also strong in terms of financial resources and influence at, respectively the higher sphere of government and higher tier of local government. However, the intermediate tier is weak and is generally associated with the upper tier rather than serving as a sound board for the aspirations of its citizens.



In the following section various aspects pertaining to the functions of local government will be dealt with.

## **2.6 LOCAL FUNCTIONS**

In this section the categories of local governmental functions, the basic principles for, and differentiation of allocating functions to local governments, will be addressed.

### **2.6.1 CATEGORIES OF LOCAL GOVERNMENTAL FUNCTIONS**

The services function of local authorities falls into two categories, namely, compulsory and permissive powers. Some statutory provisions make it compulsory or obligatory upon local authorities to carry out certain functions or to provide a certain type of services. In other cases the provisions of the statute are permissive. The result is that while there are certain services which must be provided everywhere, that is, those which are obligatory, there are other services which are only provided in some localities. Thus, the term 'permissive' means that a local authority has a choice of whether or not to render a service (Jackson, 1966 : 62 and Craythorne, 1990 : 451).

The legislative function of local authorities is the making of by-laws, and it is important in a constitutional sense in that a by-law may involve some restraint on the liberty of persons and provide punishments for non-obeyance. Essentially, a by-law applies only in the area of jurisdiction of the local authority concerned, and is a form of delegated legislation in a unitary state (Prophet, 1971 : 174). In the United States of America, for example, home rule charters may give municipalities authority to pass by-laws in matters such as town planning, building regulations, nuisances, public order and the protection of property and disorderly behaviour (Norton, 1994 : 397).

The control or executive function of local authorities is *inter alia* to ensure that, within its area of jurisdiction, the requirements of certain legislation are met, which may involve the establishment of inspectorates. Many duties of this kind fall within the sphere of public health, which embraces sanitary and



environmental health services, such as, sewerage and refuse disposal, the prevention of disease, and the personal health services which relate particularly to medical treatment (Prophet, 1971 : 175 and Jackson, 1966 : 63). The executive function also includes the implementation and execution of public policy in respect of, for example, the promotion of economic development and social upliftment.

Thus, in essence local authorities have a number of basic functions to perform, namely, to provide services, to make by-laws, to ensure that certain laws are observed within their areas of jurisdiction as well as the co-ordination of public needs, the development of a mission and the determination of objectives which culminate in public policy.

Flowing from the foregoing, Barlow (1991 : 3) writes that the activities of local government are diverse, reflecting the various aspects of its role in society. Local authorities provide public services, such as street repair and refuse collection; they act as agencies in varying degrees of central and/or state governments, as when they enforce certain legislation; they formulate policies and plans, such as those relating to local development; they act as representatives and advocates of localities in dealings with other sphere/s of government, as when they seek financial aid; they resolve conflicts between competing local interests; they regulate and control activities in the private sector, as in land-use zoning and building codes; and in some instances they own and operate business enterprises, such as markets and utilities.

Craythorne (1990 : 452-453) and Barlow (1991 : 4) group local government services into the following broad categories:

- environmental services, which are services such as roads, water reticulation, stormwater drainage, sewerage reticulation and refuse removal;
- protection and safety services, which are services such as traffic control, fire brigade, law enforcement, ambulance, civil defence, building plan control and safety inspections of buildings;



- social and welfare services, which are services dealing with the provision and administration of housing, community development, care of the aged, sports facilities, civic halls and swimming pools;
- cultural and recreational services, which are services required or valued by a community, such as libraries, museums, parks and monuments; and
- trading services, which can include airports, utilities, public transport and markets.

Although structures of local government systems vary widely, there are several functions that are universally assigned to at least one tier of the local government systems of each country. These functions are the responsibility for refuse collection and disposal, promotion of recreation ranging from sport to parks and children's playgrounds, maintenance of minor roads, the provision of personal social services, such as clinics, town and country planning, housing, public transport, education, libraries and museums, police, fire protection, public utilities, tourist promotion and nature conservation (Chandler, 1993 : 190 and Norton, 1994 : 61-66).

Therefore, it can be concluded that local authorities provide three basic functions, namely, service, legislative and control and generally perform a diverse range of activities. The services provided by local authorities can be grouped into five broad categories, namely environmental, protection and safety, social and welfare, cultural and recreational and trading services, several of which are common or typical to the basic tier or tiers of local government.

In the following subsection the principles for, and differentiations of allocating functions to local government will be addressed.

## **2.6.2 PRINCIPLES AND DIFFERENTIATION OF ALLOCATING FUNCTIONS**

Hollis & Plokker (1995 : 103) write that there are three basic ways in which powers and functions of local government can be allocated by law.



- By compiling a complete list of all possible powers and functions and laying down in detail which levels of government are responsible for which functions and how and by whom these functions will be controlled. The result of this approach might be an inflexible system which is incapable of responding to economic or technological developments and will therefore need to be frequently revised.
- By specifying which powers and functions are the sole domain of national government, by inference leaving any other functions to local government. This approach is popular in large countries with federal structures and great regional variety, such as Germany and the United States of America, because it allows governments considerable freedom to manage their own affairs.
- By agreeing to a number of basic principles regulating the power arrangements between national and local government, specifying broad range of activities for which each level of government is responsible; permitting maximum freedom in the execution of these activities, and ensuring adequate *a posteriori* control.

For the purpose of developing a framework for the allocation of functions, Hollis & Plokker (1995 : 106) differentiate between national and local government tasks.

- **National Government Tasks**

- National functions performed centrally by ministries in the capital city, for example, foreign affairs, defence, macro-economic control and trade.
- National functions performed by decentralised units of the national government administration at regional and municipal levels, where they can be performed more efficiently and effectively, for example, internal affairs and energy. This arrangement can be described as deconcentration.
- National functions performed relatively close to the national government, for example, airports and maintenance of major roads. This arrangement can be described as delegation.
- National functions devolved or delegated to the regional or local spheres of government must be accompanied by adequate funding.



- **Local Government Tasks**

- National functions transferred to regional and local governments over which the national government wishes to exercise supervisory control while leaving the rest to local discretion, for example, regional economic development, education and health. This arrangement can be described as delegation.
- Local government functions managed entirely at the discretion of local government over which the national government does not wish to exert control, for example, local transport, parks, building maintenance, sewage systems and garbage disposal. This arrangement can also be described as devolution.

In summary, it can be stated that there are basically three accepted ways in which powers and functions can be allocated to local government, namely, by compiling a complete list of functions and specifying which level of government is responsible for which functions; by specifying which functions are the domain of national government and leaving the remainder to the other levels of government; and lastly, by agreeing to certain principles as to how the functions will be executed between the various spheres of government with built-in control and regulatory mechanisms.

Thus, it can be concluded that in a democratic environment there should be a clear distinction drawn between the functions to be performed by national government and that of local government, as well as the type of arrangement specified for the execution of the functions, that is, the form of decentralisation.

In the ensuing section various aspects pertaining to local government finance will be examined.

## **2.7 LOCAL FINANCE**

In this section the various sources of local revenue, principles of financing local government and a number of models of local government finance systems will

be addressed. The focus is on decentralisation of funds or greater independence of the local sphere of government.

## **2.7.1 SOURCES OF LOCAL REVENUE**

According to Humes (1991 : 236-237) local governments secure their funds principally from three sources, namely:

- locally raised revenue, which includes taxes, fines and fees, and enterprise earnings;
- transferred or assigned income which includes general revenue sharing, grants, and direct budget allocations; and
- loans.

### **2.7.1.1 Local Raised Revenues**

In the ensuing subsections property levy, personal tax, fees and fines, and public enterprise earnings will be dealt with. These revenues have a bearing on the degree of centralisation or decentralisation.

#### **2.7.1.1.1 *Property Levy***

The property levy on land and improvements has been the most prevalent form of local tax. In the more affluent countries the yield from property tax has generated a substantial proportion of municipal income. In less developed countries, though, the income from the property tax has been significantly less, in part, because it has not been as prevalent, and in part, because many developing countries do not tax rural land or grant exemptions for property under a certain value (Humes, 1991 : 237).

According to Mawhood (1993 : 15) property tax is relatively cheap to collect, and allows for easy budgeting in the local council since the value of the base is exactly known. Valuation, however, tends to be expensive, and there are political, administrative and personal obstacles which can prevent the valuation rolls from being kept up to date, particularly in the developing countries.



Norton (1995 : 75) writes that in the United States of America and Britain rebates have been given to owners or residents with low incomes. Residential properties have commonly been taxed at a lower rate than business premises, but there is a general trend towards equalising between the two types of property for economic reasons.

In Britain the council tax was introduced in the 1993/94 financial year, which tax is on households and is based on the value of properties. The council tax is collected by the district councils and the London borough councils with arrangements being made to pass on a precept to counties where relevant (Jones, 1995 : 22).

Thus, it can be stated that property tax is the most prevalent form of local income in developed countries whilst it is less prevalent in developing countries due to political, demographic, administrative and personnel capacity obstacles.

#### **2.7.1.1.2 Personal Tax**

In some countries all or some of the local governments have been empowered to levy a personal income tax, which tax has been the major source of income for Finnish and Swedish municipalities. In Nigeria a head tax, which is a set charge for all adult males, has been the principal source of local government income. Britain introduced a community charge or "poll tax" as it became known in 1989/90 as the principal source of locally raised revenue which caused considerable resentment, due to the removal from local governments of the freedom to set tax levels, led to widespread evasion and contributed to the causes leading to the resignation of the then British Prime Minister, Margaret Thatcher in 1990 (Humes, 1991 : 237).

According to Mawhood (1993 : 15) local taxes on persons can be extremely simple, as with the poll tax which still survives in some countries, for example, Nigeria, or more sophisticated and occasionally progressive, as with the graduated personal tax, which was developed in East Africa in the 1950's and has been widely adopted. It amounts to an income tax, administered locally



along simplified lines so as to keep the documentation to a minimum. The taxpayer can declare his or her sources of monthly income verbally, and to ensure honest declaration the assessors often tour the villages and sit in public. In practice the salaried people are always hit hardest by the tax, while the self-employed are under-assessed.

Thus, it can be stated that personal tax is still applied in some developed and developing countries and that it is a reliable source of local income insofar as salaried people are concerned. It is a decentralised source of local income, the level or rate of which local authorities can be empowered to set as in the case of the property tax.

#### **2.7.1.1.3 Fees and Fines**

The range of services for which fees and charges can be and are collected is wide. There are well over one thousand different local authority services for which fees or charges are levied. The largest are in the fields of housing, education and social services, but all departments now charge directly for at least some of their services and substantial income accrues from car parking, leisure centres and drain cleaning (Jones, 1995 : 23).

#### **2.7.1.1.4 Public Enterprise Earnings**

Earnings from utilities and other public enterprises constitute a further source of locally raised revenue. Local governments engage in public enterprises covering a broad range of local services, the most common of which are utilities such as water supply, sewers, electricity, gas and public transport. Other revenue-generating enterprises have been public housing, sea and airports, rail and bus terminals, heating plants, markets, slaughterhouses and economic development authorities (Humes, 1991 : 238).

Thus, public enterprise earnings or revenues from trading enterprises, such as, the supply of electricity, gas and water can contribute substantially to the budget of local governments. Such functions should be delegated which in turn



will give local governments greater independence from the national government.

### **2.7.1.2 Assigned Revenues**

Humes (1991 : 238) writes that in recent decades more local governments have become increasingly dependent on shared revenue or grants transferred or assigned to them by the central government. This shift is a corollary of a number of political economic phenomena, namely:

- the increase in the duties assigned by central to local government;
- the increase in central revenue through income tax or other sources; and
- the growing inadequacy of local sources, especially in the face of the expanding array of local services, many of which the central governments are demanding.

The subsections to follow will address revenue sharing and the various types of grants.

#### **2.7.1.2.1 Revenue Sharing**

Shared taxes are usually collected by the central government on behalf of a local government and then transferred to the latter. The specific percentage designated for local governments is generally set by central governments, though, individual local governments may set an additional percentage, that is, within the limit specified by legislation. Shared taxes may be distributed on the basis of the share of origin or as determined by a formula which takes into account such factors as population, area, services rendered and need (Humes, 1991 : 239).

Humes (1991 : 239) continues that shared taxes are used by an increasing number of countries and are especially prevalent in Northern Europe. Central governments may share the tax revenue from a variety of types of taxes, for example, personal income, corporate income, property sales, electricity, alcohol, inheritance and motor vehicle registration and fuel.

#### **2.7.1.2.2 Grants**

In this subsection the various types of grants will be discussed, namely, general, specific and block grants.

##### **2.7.1.2.2.1 General Grants**

General purpose or global grants can in principle be spent by local authorities as freely as the income they raise themselves. Sometimes there are separate global grants for current and capital expenditures. Their level may be related to objective criteria and in some cases to the level of an authority's own determined tax level, increasing as this rises (Norton, 1994 : 81).

##### **2.7.1.2.2.2 Specific Grants**

Hepworth (1980 : 61) and Gortner (1981 : 359) state that specific or categorical grants are grants in aid of a particular service or a particular section of a service, for example, the police grant in Britain. At the state level in the United States of America the major grant programme relates to support for elementary and secondary education. At the federal level, support to both state and local governments has historically been aimed at including them to increase the level of services in specified areas, for example, the construction of hospitals.

##### **2.7.1.2.2.3 Block Grants**

The multi-purpose or block grant is neither for general use nor tied in one specific programme. Such grants may have resulted from the efforts of central government to reconcile their desire to maintain some controls over the use of transferred funds and the local demands for some discretion. Thus, while some limitations are maintained, local governments are given freedom to establish priorities within a broadly defined programme area. Block grants have been used in some countries, such as the United States of



America, to cut grant funds without having to decide what specific programmes should be cut (Humes, 1991 : 240 and Gortner, 1981 : 362).

Therefore, the three types of grants vary in terms of restriction or latitude with which the local authorities may utilise this form of funding from the higher spheres of government. The level of dependence of local authorities on this form of funding and, in particular by way of specific grants, has a direct bearing on centralisation or increased control by the higher spheres of government.

### **2.7.1.3 Loans**

Humes (1991 : 241) and Seeley (1978 : 159) state that local authorities only make use of loans for capital investment purposes, such as the building of roads and bridges, dams, city halls, water and sewer facilities, schools and clinics, that is, major capital projects.

In some developed countries such loans may be arranged through commercial banks. In many developing countries, though, municipalities generally have difficulty gaining access to such sources of capital, and when they do, the interest rates are prohibitive. The difficulty in borrowing, combined with the pressing operational needs, continually squeezes out capital projects. Therefore, local governments in developing countries, especially rural ones, have limited capital development. For this reason many developed as well as developing countries have established credit institutions, which may be controlled primarily by central government, primarily by local government, or both the central and local government (Humes, 1991 : 241).

According to Hepworth (1980 : 141) there are various instruments open to local government to borrow money, namely, mortgage bonds, stock, local bonds, negotiable bonds, deposit receipts (temporary loans) and local authority bills.

The borrowing methods of local authorities in most countries can be summarised as follows:

- Borrowing from internal funds, for example, employee insurance funds, legacies and foundations;
- Borrowing from private and public banks;
- Temporary borrowing from the money market;
- Bonds and debenture issues;
- Stock issues;
- Lease arrangements; and
- Temporary loans and bank overdrafts to cover operational expenses (Norton, 1994 : 79).

Finally, local governments can obtain funds by way of raising loans on the open market for various capital projects, the extent to which use of this source of funding can be made varies between the developed and developing nations.

In the ensuing subsection the main principles of local government finance will be addressed.

## **2.7.2 PRINCIPLES OF FINANCING LOCAL GOVERNMENT**

In this subsection three key principles which underpin the financing of local government in a democratic society will be addressed.

### **2.7.2.1 Financing Principle**

In practical terms this principle means that:

- national government should provide the revenues for national functions provided to basic minimum standards, such as health care, education and pension benefits, even where they are performed or managed by local government; and
- local government needs to have a strong, autonomous source of revenue to match its discretionary powers.

Hollis & Plokker (1995 : 128) write that since the extent of functions and the availability of finances inevitably changes as a result of economic, social and



demographic developments, many local government decentralised reforms have been aimed at constantly reassessing and adjusting the balance between national and local functions and revenues. In practice, therefore, once the initial matching of finance to functions has been agreed to by all participants, it is essential to adhere to the principle of local government finance.

The financing principle ensures that any decision, whether taken by national or local government, must be accompanied by the resources necessary to finance it. Specifically, in the case of the transfer of national functions to lower spheres of government, this means that the national government should ensure the provision of adequate resources to local government for their performance. This is especially important during the process of decentralisation (Hollis & Plokker, 1995 : 128-129).

The ability of local government to raise its own taxes is often guaranteed in the constitution of a country (Hollis & Plokker, 1995 : 128). Municipalities may or have the right to impose rates on property and surcharges on fees for services rendered by or on their behalf.

Thus, the financing principle implies that when it is agreed or decided to devolve a function it must be accompanied by the necessary financial resources to enable the lower level of government to execute the function satisfactorily.

#### **2.7.2.2 Beneficial Principle**

The beneficial principle can be usefully applied to those utility services where the amount of consumption is directly influenced or controlled by the end user, for example, water, gas and electricity supply. In practical terms this means that those who use communal services should contribute to the economic cost of the provision of those services directly according to their individual consumption (Hollis & Plokker, 1995 : 128).

Gildenhuys (1989 : 36) writes that private or special services are those which the user value per unit can be allocated and measured and for which a price per unit used can be determined in accordance with the cost of delivery or



provision. Another characteristic of this service is its exclusivity in that the person who does not pay for the service can be excluded from making further use thereof. A further characteristic is its exhaustability in that with the use thereof it becomes exhausted and accordingly the service needs to be replenished on an ongoing basis. Private or special services are usually financed by way of user tariffs which represent a price per unit used and, thus, the user of such a private service receives a direct *quid pro quo*.

Therefore, the beneficial principle can be readily applied to various trading services where the consumption or use thereof can be measured and the cost per unit determined.

### **2.7.2.3 Ensuring the Probity of Financial Conduct**

According to Hollis & Plokker (1995 : 129) the principle of ensuring the probity of financial conduct can best be achieved by the following steps:

- Applying the financing principle at the local level, that is, ensuring that individual councillors cannot promote popular spending programmes without indicating where the resources for such a policy should come from.
- Setting up a "code of conduct" to which local authorities agree to adhere. This can consist of relatively simple goals, such as adopting the budget before the budgetary year begins, publishing annual accounts, and setting guidelines on avoiding conflict of interest or corruption.
- Ensuring independent external controls to verify financial practices, such as a complaints procedure, independent audits, an ombudsperson, and an independent local press.

To summarise, it can be stated that there are three key principles which underpin the financing of local government in a democratic environment, namely, finance to follow devolved or delegated function, individual or private user benefit and integrity of financial behaviour. It can also be stated that beyond the said principles, each country will inevitably have its own criteria for establishing an efficient and manageable system of public finance based on its



specific circumstances and requirements, for example, political factors, economic and social exigencies and popular demands.

In the next subsection various models for local government financing systems will be explored. This should be seen in relation to models of political systems.

### **2.7.3 MODELS OF LOCAL GOVERNMENT FINANCE SYSTEMS**

In this subsection three models of local government finance systems will be dealt with, namely, centralised, decentralised and hybrid.

#### **2.7.3.1 Centralised System**

The first model is a centralised system in which the national government collects and retains all the major taxes, such as personal income, corporate income, VAT, real estate and excise duties. It then funds the expenditures of national government programmes, such as defence, foreign affairs and social security from these revenues, as well as supporting local government with grants and subsidies for the provision of local services, for example, education, health care and social housing (Hollis & Plokker, 1995 : 132).

Annexure A illustrates the centralised system of grant allocation (Hollis & Plokker, 1995 : 133).

A centralised system will have a highly developed redistributive mechanism to ensure that needs and resources are equalised across the country. Although local government may be granted a limited range and scope for minor local discretionary taxes, the major proportion of the budgets of local governments will be provided by the national government (Hollis & Plokker, 1995 : 132). This system of finance is more likely to be encountered in developing countries due to the need for redistributing resources.

According to Stoker (1991 : 6) this is the model in which local authorities are seen mainly as agencies for carrying out the policies of central government. This is achieved by detailed specification in legislation, the development of



regulations and the operation of controls. There is, therefore, little need or justification for significant local taxation. Grants or other non-local funding make up the bulk of the local authority income.

Thus, the centralised system of funding or grant allocation to the lower levels of government by the central government is to be found in developed as well as developing countries with either a unitary or federal system of government. Under this system local governments are dependent on the higher level/s of government for a large portion of their income.

### **2.7.3.2 Decentralised System**

The second model is a decentralised system of local government finance in which the relationships are almost reversed. In this system local governments retain a substantial share of major taxes, such as personal income, corporate income, VAT, real estate and excise duties, with which they fund major services, such as education, health care and transport. The other share of these taxes is allocated or transferred to the national government to carry out major national programmes, for example, defence, foreign affairs and security (Hollis & Plokker, 1995 : 135).

Annexure B illustrates the decentralised system of tax sharing (Hollis & Plokker, 1995 : 134).

In its extreme form, this system leaves only limited room for need and resource equalisation through redistributive mechanisms organised by national government. The implicit assumption, if not the legal position, of such a tax sharing system is that the national government does not have an exclusive right to tax revenues, but that all taxes belong to all spheres of government and should be distributed through mutual agreement (Hollis & Plokker, 1995 : 135).

The emphasis of this model is on giving freedom of action to local authorities within a defined framework of powers and duties. Central government relations with local authorities are, therefore, determined largely by legislation. Controls are limited and local authorities raise most of their revenue through direct



taxation. Within this model, local authorities may pursue policies which they share with central government or which differ from those advocated by central government (Stoker, 1991 : 6).

To summarise, it can be stated that this system of devolved funding occurs predominantly in developed countries with a federal system of government, such as, Austria, Germany and the United States of America where local governments are relatively free to levy taxes at their own rates and receive limited financial support from central government.

### **2.7.3.3 Hybrid System**

According to Hollis & Plokker (1995 : 135) the most common system of local government finance is a hybrid system where some taxes are retained by national government, some taxes are retained by local government, and there is a tax sharing pool from which grants and subsidies are distributed for general and specific purposes between national and local governments.

Annexure C illustrates the hybrid system of grant allocation with a strong local tax (Hollis & Plokker, 1995 : 136).

Stoker (1991 : 6) writes that in this model it is difficult to define spheres of action of central and local government, because they are involved in a complex pattern of relationships, in which the emphasis is on mutual influence. The political processes of central and local government are closely inter-related, with issues often being resolved by mutual discussion. The officers of both levels are closely involved in joint discussion of projects and plans. Local government finance, will involve both taxes and grants, but taxes may be shared and grant levels protected.

Therefore, in the hybrid or mixed system each sphere of government retains some taxes which it is permitted to levy and there is a common pool from which funds are distributed for various purposes, for example, housing, health and education. Such a funding system is found in both developed and developing



countries with predominantly a unitary system of government, for example, France and South Africa.

In conclusion, there must be a correlation or relationship between the political models of local government and the models of local government finance systems to overcome conflicting policies or situations, for example, a country with a pure unitary system of government may find it more difficult to apply a decentralised system of finance.

## 2.8 CRITERIA FOR COMPARISON

Flowing from the preceding sections of this chapter, four criteria for comparison have been identified and will be applied at macro level to the various developed and developing countries selected for this dissertation. These criteria are, political system, local political structure, functions and finance, which criteria will be applied in the ensuing five chapters.

Decentralisation in its various degrees or forms has an impact on the aforementioned four criteria which have been identified for the purpose of this dissertation.

Table 2.6 sets out the criteria for comparison.

**Table 2.6 : Criteria for Comparison**

DECENTRALISATION	DEVELOPED & DEVELOPING COUNTRIES	POLITICAL SYSTEMS	LOCAL POLITICAL STRUCTURES	LOCAL FUNCTIONS	LOCAL FINANCE
		Constitutions	Types of local government	Basic local functions	Sources of local revenue
		Systems of government	Strong and weak spheres of local government	Categories of local services	Principles of local financing
		Intergovernmental relations	Models of local government (tiers of local government)	Allocation of local functions	Models of local finance systems



## 2.9 SUMMARY

The reform or transformation process in any country has an impact on *inter alia* its political system, political structures, that is, national and/or regional as well as local, functions and finance. Hand in hand with the type of reform goes either centralisation or decentralisation of powers and functions.

Central and/or regional governments can transfer powers and functions to elected local government units in a number of forms, namely, by deconcentration, delegation or devolution. The degree or form of decentralisation of power depends on a number of factors, such as political stability and unity in a country, the political system of a country, financial and personnel capacities of local government units and efficiency of local administration, that is, discharging of public functions and services.

Primarily there are two systems of government, namely, unitary and federal. A difference between the two systems is that in a unitary state, such as Britain there is only one level of government above the local level, whereas in a federal state, such as the United States of America there are two levels of government above the local level, namely, central and state. A further difference between the two systems is the amount of authority or power which vests with the central government. In a unitary state the authority vests with the central government which controls the lower level/s of government, that is, centralisation of authority, whilst in a federal state the provisions of the constitution define the authority of every sphere of government, that is, decentralisation of authority. Consociation is a further form of government that can be found in countries or societies which are characterised by ethnic, religious, ideological, cultural or language differences, for example, Belgium.

Countries are generally classified as being developed or developing. Industrialised or developed countries are predominantly western, capitalistic, industrial and democratic. The developing countries are the former Eastern European Marxist-Leninist countries and the former colonies in South America, Africa and Asia. These countries are largely agrarian with a small industrial base and usually have fragile and unstable political institutions.



Local authorities are mostly classified according to either their geographic or functional base and fall into two categories, namely, multi- or general-purpose and single or special-purpose authorities. Local government may comprise a single, two-tier or multiple tier structures, each of which has its advantages and disadvantages. Furthermore, the strength of the sub-national levels of government varies in accordance with the political system prevalent in a country.

Throughout the world, central governments exercise some degree of control over local and/or regional government. No central government can, without neglecting its own responsibilities, allow authority to rest entirely with a lower sphere of government. Central control over local government is exercised by way of legislature, administration, finance and the judiciary. The type of control exercised by central government in turn has an impact on intergovernmental relations which is further influenced by factors, such as political ideology, authority and power, functional differences and financial resources.

Local authorities are generally required to perform three basic functions, namely, services, legislative and control within their areas of jurisdiction. The number and range of functions or services provided by local authorities varies from country to country due to political, economic, social and demographic factors. Local authorities are, however, required by legislation to provide certain services, but the powers to provide most services are usually permissive, which means that a local authority has a choice whether or not to render a service.

The sources of revenue of local authorities can generally be categorised into local taxes, grants and loans. The base from which local authorities can raise revenues or taxes varies considerably between the developed and the developing countries. However, local authorities in both the developed and the developing countries have, for various reasons, over the past two to three decades become increasingly dependent on various types of grants from the central and/or regional governments.



In the next chapter some of the decentralised reforms in respect of local government implemented in a selected developing country, namely Botswana, will be addressed.

## CHAPTER 3

### LOCAL GOVERNMENT IN BOTSWANA

#### 3.1 INTRODUCTION

Botswana is a former colony of Britain, which was managed by a high commissioner and various assistant commissioners who were stationed in the administrative districts of the then Bechuanaland Protectorate.

Botswana is a unitary state in Southern Africa with two levels of government, namely, central and local, where elections have been held on a regular basis since gaining independence from Britain on 30 September 1966. Botswana is one of the most stable countries on the continent of Africa.

Various local government decentralised reforms took place in Botswana in preparation for independence and to this end a number of laws were promulgated in 1965, which *inter alia* introduced a system of representative local government whereby the majority of members were elected on a basis of universal adult suffrage. Certain aspects of these decentralised reform policies and strategies could be of relevance when formulating an effective system for local government for South Africa.

In the ensuing sections of this chapter the historical development, political system, local political structure, which includes the functions and finance of the various forms of local institutions, will be addressed, whereupon a brief evaluation of these local institutions will be made. An evaluation of the decentralised reforms will then be made of the criteria identified for this study in respect of Botswana for later analysis within the South African context.



### 3.2 HISTORICAL DEVELOPMENT

Reilly & Tordoff (1993 : 152) state that there are six phases pertaining to the development of local government in Botswana, namely:

- the period from pre-colonial times to 1934, when local power was entirely in the hands of the tribal authorities, that is, the chiefs;
- from 1934 to 1957, during which period the tribal authorities became increasingly the agents of the Government, but retained their powers;
- the period from 1957 to 1966, during which there was much debate regarding the creation of democratically elected councils to advise the chiefs (tribal authorities) and take a larger share in local government;
- the next phase came with the establishment in 1966 of district councils which took over powers of the tribal authorities and which dominated the local sphere with considerable support from the new Government until 1970;
- the period from 1970 to 1976 in which the Government, disillusioned by the inefficiency and ineffectiveness of the district councils, centralised certain powers and shifted its support towards a system of deconcentration through the district administration and other departmental officers in the field; and
- the phase from 1976 which brought about the revival of delegation of powers stimulated by the need to rely on councils for the implementation of the Accelerated Rural Development Programme (ARDP), the creation of the land boards to administer the Tribal Grazing Land Policy (TGLP), and the emphasis on the district development planning process.

The first two of the foregoing evolutionary phases of local government are dealt with in this section, that is, the period prior to independence in 1966.

The first legislation regarding local government in the then Bechuanaland Protectorate was the **Native Administration Proclamation, 1934** (No. 74 of 1934), which together with the **Tribal Treasury Proclamation, 1938** (No. 35 of 1938) brought the system of local (tribal) administration and the local administration of justice in line with the British system of indirect rule in its African dependencies (Jeppe, 1974 : 136).



According to Jeppe (1974 : 136) the most important provisions of the **Native Administration Proclamation**, 1934, were the recognition of the tribal chiefs by the British authorities to formally exercise authority (indirect rule), the definition of the duties and powers of a chief and the establishment of a tribal council (*kgotla*) for each tribal area under a chief.

The **Tribal Treasury Proclamation**, 1938, provided for "native treasuries" for the different tribal areas into which all local taxes and levies were paid and for the abolition of the "native fund". The chiefs were paid a fixed stipend and a percentage of the tax collected was paid into the treasuries. The native treasuries were administered by the chiefs in consultation with their tribal councils and were to provide for the financing of education and agricultural activities in tribal areas (Jeppe, 1974 : 137).

Jeppe (1974 : 137) continues that in terms of the **Native Administration Proclamation**, 1943 (No. 32 of 1943) the *kgotla* (traditional tribal council of every chief) was acknowledged as the advisory council of the chief without the formal composition or recognition being prescribed by the British authorities. The tribal councils established in 1934 were replaced by "native authorities" or "subordinate native authorities" to be appointed for any area or group of areas. The **Native Administration Proclamation**, 1943 also broadened the functions of native authorities by granting them powers to make rules on matters relating to the preservation of law and order and the provision of local services as well as the levying of fees for such services.

An important development aimed at democratizing the system of local tribal government as it then existed was implemented by the **African Administration Proclamation**, 1956 (Cap.67 of 1956). Tribal councils were re-instituted to serve as advisory bodies for chiefs on local (tribal) government matters. In this way the principle of an official advisory council as provided for by the **Native Administration Proclamation**, 1934 was reintroduced. Another important change effected by the **African Administration Proclamation**, 1956 was the establishment of district councils within tribal areas which were subordinate of every tribal council. The purpose of the system was to provide closer contact

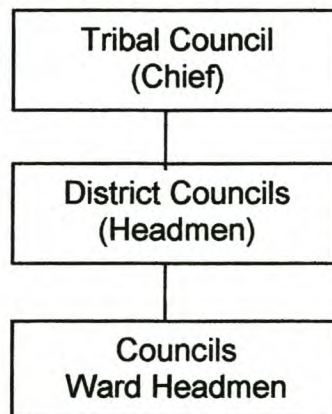


between the chief and his tribal council on the one hand and the various subdivisions of the tribal areas on the other, as well as to bring about better communication with the people in the subdivisions through wider representation (Jeppe, 1974 : 137-138).

The system implemented in 1957 retained the traditional system of authority, namely, the tribal and district council as a unit of local government in the tribal areas. The extension of the council system to the subdivisions of the tribal area by way of recognition of subordinate or ward headmen and councils was implemented with a view to uniting the traditional tribal council (*kgotla*) system with more democratic processes through a pyramidal system of local government (Jeppe, 1974 : 138).

Figure 3.1 shows the hierarchical structure of a tribal area.

**Figure 3.1 : Structure of a Tribal Area**



This system of African local councils which was implemented in 1957 was in place until 1966 when significant decentralised reforms were made in the system of local government in rural areas.

Picard (1979 : 289) concludes that the traditional resistance to any reforms continued to haunt the Government until the end of the 1950's, and the decision to shift to an elective system in the early 1960's finally came about because the tribal administration was overtaken by constitutional changes at the national level. The sequence of events was, thus, reversed from the normal pattern of British Colonial Africa.



### **3.3 POLITICAL SYSTEM FROM 1966 TO 1999**

A landlocked nation in Southern Africa, the Republic of Botswana is regarded as one of the few countries on the continent with a democratic system of government (Kurian, 1998 : 86). Only a few developing countries in Africa have managed to operate a liberal democratic form of government since being granted independence from their colonial powers. These include Botswana and Gambia in Africa (Hague & Harrop, 1987 : 59).

Wunsch (1999 : 17) adds that the local political process in Botswana is far more developed than in most other African states as it has had uninterrupted democracy and civilian rule since independence, albeit dominated by one political party. Nonetheless, the local political process is unevenly developed amongst the various local institutions.

A striking feature of most of the ex-colonial states in Africa, such as Botswana, is the continuing influence of the colonial past and inheritance of the administrative behaviour, procedures and systems of governance (Picard, 1981 : 98). When Botswana gained its independence as a nation in 1966, it inherited from the administration a system of district administration which was French prefectoral in nature and a local government system which was modelled on that of Britain (Picard, 1979 : 283).

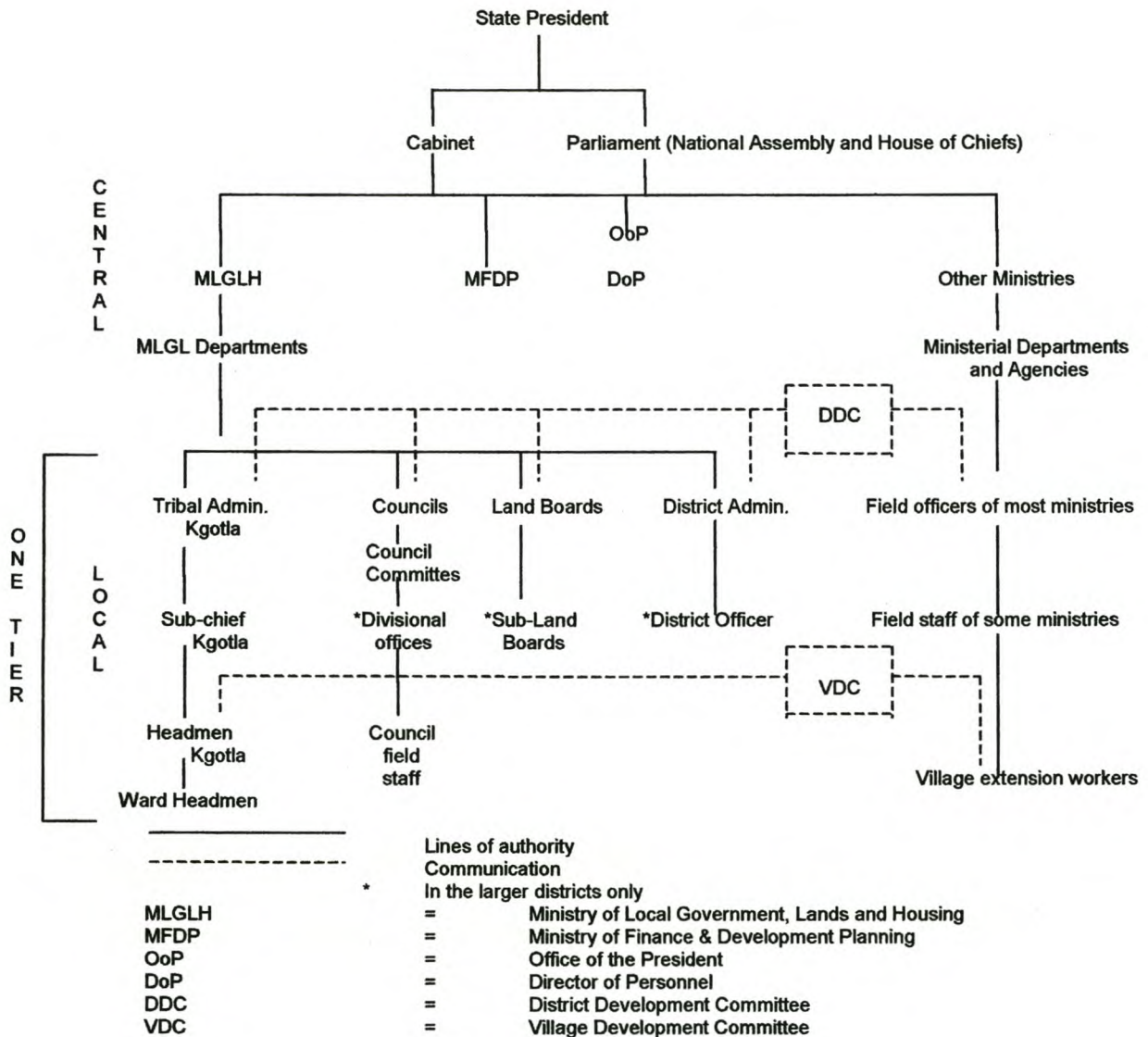
As a parliamentary democracy, Botswana vests executive power in the president, assisted by a vice president and cabinet. The National Assembly is the supreme legislative body and elects the president. The Government must consult the House of Chiefs on all matters relating to chieftaincies and changes to the Constitution of 1966. The judicial system includes magistrate's courts and the High Court (Kurian, 1998 : 86).

The thirty-eight articles of the Constitution of 1963, deal with Parliament, the House of Chiefs and the National Assembly, as well as the executive and the judicial branches of government. Local government is not enshrined in the Constitution of Botswana (Kurian, 1998 : 88).



Figure 3.2 shows a simplified organisation of the main institutions in Botswana (Reilly & Tordoff, 1993 : 151).

**Figure 3.2 : Organisation of Central and Local Institutions**



Wunsch (1999 : 15) concludes that as Botswana is a unitary state, local government has no constitutional status and is a purely statutory creation. Within these statutes the Ministry of Local Government, Lands and Housing plays a key role in virtually every aspect of local government, which includes controlling and supervising most decisions regarding local staff, budgeting, development planning, self-help projects; ensuring conformity with national policies and priorities; providing training; developing new revenue sources; and developing new managerial systems and procedures. Even when local

authorities seek greater autonomy, their primary spokesperson and advocate is the said Ministry. Thus, this ministry is critical for all aspects of local governance in Botswana.

Therefore, it can be stated that Botswana is a former colony which inherited the unitary system of government from Britain and that the rights and status of local government are not guaranteed in its Constitution.

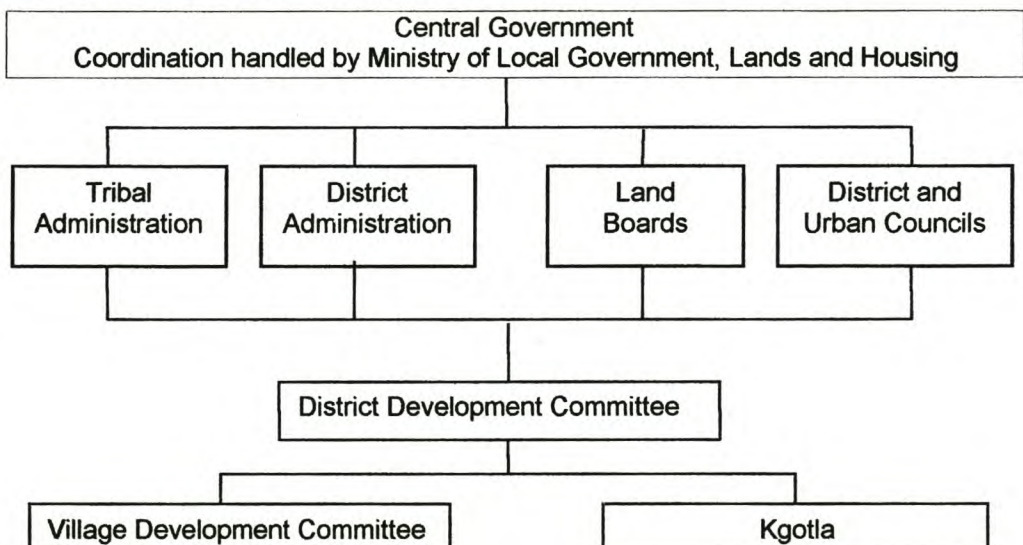
Further, in the light of the dominant role played by the Ministry of Local Government, Lands and Housing with regard to local government, the degree or form of decentralisation is limited to that of deconcentration with the consequent effect on intergovernmental relations.

### 3.4 LOCAL POLITICAL STRUCTURE

There are four forms of local institutions in Botswana, namely, tribal administration, councils (district and urban), land boards and district administration (district commissioners), which will be dealt with in chronological order in this section of the chapter.

Figure 3.3 depicts the structure of local institutions in Botswana (NDP 7; 1991 : 446).

**Figure 3.3 : Structure of Local Government Institutions**





In Botswana there are nine district and five town or urban councils. A council consists of a majority of elected councillors, from two to six nominated councillors chosen by the Ministry of Local Government, Lands and Housing, and the paramount chief as an *ex officio* member. The councillors elect a chairperson from among themselves. The administrative staff of the councils comprise the chief administrative officer, the council secretary and his/her assistant, a treasurer who controls the finance department, and an education secretary responsible for all primary education in the district (Vengroff, 1977 : 124-125).

Thus, the local level of government in Botswana comprises one tier of mainly representative urban and rural councils. The sub-chief Kgotla, sub-chief land boards depicted in Figure 3.2 as well as the development committees cannot be construed as a true second tier of local government but as an extension of the primary local authorities, that is, tribal administration, district administration and land boards, as they have no legislative and executive powers.

### **3.4.1 TRIBAL ADMINISTRATION**

In this subsection certain terms will be defined, the post independence perspective, the decline in the power of chiefs, the role of the chiefs, defects, chiefs as members of the public service and the chiefs since 1980, will be addressed.

#### **3.4.1.1 Terminology**

The term 'tribal administration' includes a hierarchy of chiefs, regents, deputy chiefs, chiefs' representatives, senior subordinate chiefs, subordinate chiefs and headmen. Also included within the tribal administration are the customary court officials, tribal police and other personnel to assist the chiefs and tribal authorities in the administration of their responsibilities (Reilly & Tordoff, 1993 : 153).



The terms 'chiefs' and 'tribal authority' have been used, for the sake of simplicity, to cover all members of the tribal administration hierarchy.

#### 3.4.1.2 Post-independence Perspective

Tribal administration was the only local authority prior to the then Bechuanaland Protectorate being granted independence in 1966. It wielded great power, enjoyed prestige and had major responsibilities in the districts for the maintenance of law and order, administration of justice, allocation of land, provision of certain services and as representatives of the tribe to the Government (Reilly & Tordoff, 1993 : 153).

The report of the committee appointed in 1963 by the then British Resident Commissioner in Bechuanaland to advise on the future development of local government in rural areas, was submitted in 1964. After consultation at tribal level, **Government Paper** (No. 21 of 1964) was promulgated which accepted the recommendations for the introduction of a system of representative local government in rural areas (Jeppe, 1974 : 139).

Flowing from the adoption of these recommendations, two major laws brought the new system of local government into operation in 1966. This new system of representative local government was introduced by the **Local Government (District Councils) Law**, 1965 (No. 35 of 1965) and the **Local Government Tax Law**, 1965 (No. 20 of 1965), which will be addressed in the next section.

#### 3.4.1.3 Decline in the Power of Chiefs

Since independence in 1966, the chiefs have experienced an erosion of their traditional powers, all the more noticeable in the light of their previous hegemonic position. The Government of Botswana, concerned to establish its legitimacy and to forge a common national allegiance, as well as to build an effective administration, implemented a series of legislative and executive measures attenuating the powers of tribal leaders (Jones, 1983 : 133).



The **Chieftainship Law**, 1965 (No. 29 of 1965) superseded the **African Administration Proclamation**, 1956 and provided the legal cornerstone for the recognition and the functioning of the office of chieftainship at different levels of tribal rule. The aforesaid law is applicable to all rural areas of Botswana where Africans live in an organised tribal manner, that is, the tribal territories of the eight Tswana tribes as well as to "tribal communities", which entails any community residing outside a tribal territory but is organised in a tribal manner (Jeppe, 1974 : 139).

Section 14 of the **Chieftainship Law**, 1965 provides for the recognition, appointment, deposition and suspension of chiefs by the President. A salient feature of this law is the absolute authority reserved for the President in all matters affecting appointment and deposition of chiefs with no reference to the National Assembly or the House of Chiefs.

Sections 10 and 24 of the aforesaid Law further provide for the appointment of subordinate persons of authority by the chiefs, namely, deputy chiefs, headmen and chief's representatives. Appointment of a deputy chief is subject to the approval of the President, headmen are appointed by the chiefs after consultation with the tribesmen at a *kgotla* in a customary manner while the appointment of a chief's representative is likewise subject to discussion by the people living within the area of a particular tribal territory and requires the approval of the Minister of Local Government, Lands and Housing.

The **Chieftainship Law**, 1965, therefore, reduces the personal powers of chiefs in so far as they are fully responsible to the President in the execution of their functions and have to govern in consultation with their subordinates (Jeppe, 1974 : 141).

Since coming into effect of the **Tribal Land Act**, 1968 (No. 54 of 1968) in January 1970, the chiefs have been chairpersons of the land boards in the designated tribal areas. According to Jeppe (1974 : 141) the Act considerably curbed the power of chiefs by transferring to local land boards the right previously held by chiefs to allocate land in tribal areas to members of their



tribes or to grant such tribal land or interests therein to either the district council concerned or the Government.

Under the **Local Government (District Councils) Law**, 1965 responsibility for local health, education, public works and boreholes was transferred from the chief and his tribal administration to the newly created district councils (Jones, 1983 : 134).

The power of the chiefs was further eroded under the **Matimela Act**, 1968 (No. 25 of 1968), which transferred the responsibility for the impounding of stray cattle to the district councils.

#### 3.4.1.4 Role of the Chiefs

Towards the end of the 1970's the most distinct role of the chiefs was to administer the customary law under the **Customary Courts Act** (Cap. 04 : 05). Botswana adheres to two separate judicial systems, namely, the subordinate court system using magistrates and the customary courts presided over by the chiefs (Reilly & Tordoff, 1993 : 154).

As stated in the foregoing subsection the sole legal responsibility of the chiefs to allocate land in tribal areas was, transferred by the **Tribal Land Act**, 1968 to the land boards and subordinate land boards in 1970. The chiefs nevertheless retained a role in tribal land allocation through being represented on the said boards and adjudicating in land disputes.

According to Reilly & Tordoff (1993 : 155) a significant role of the chiefs by the end of the 1970's was to preside over the *kgotla* and in so doing influence tribesmen in maintaining the best of Botswana's traditions and supporting local government. The *kgotla* was the only institution thoroughly understood and accepted at grassroots level and, therefore, crucial to obtaining true participation in the developing process. It gave the chief a continuing source of local influence, it enabled ministers and civil servants to convey Government policy and it provided politicians generally with an avenue to seek electoral success.



#### **3.4.1.5 Defects**

Since the chiefs lost power to the politicians in the 1960's, the tribal administration decayed, with the result that the administration was demoralised, poorly staffed and unable to fulfil its potential. While chiefs were made *ex officio* members of the new district councils, they were not given substantial representation and relations between the chiefs and councillors became strained (Reilly & Tordoff, 1993 : 155).

Reilly & Tordoff (1993 : 155) continue that by the end of the 1970's most of the assets of tribal administrations, for example, offices, equipment and vehicles were transferred to the district councils; that a high percentage of the chiefs, sub-chiefs and headmen were old, poorly educated, ignorant of modern government and even illiterate, and that tribal administration officers were also poorly educated, generally of a lower calibre than their counterparts in other local authorities and underpaid, given their responsibilities in comparison to the staff in other local institutions.

#### **3.4.1.6 Chiefs as Members of the Public Service**

In asserting its authority over the chiefs, the Government has sought to make them agents of state administration, especially in the districts. In consequence they have become employees of the public service, and hence are increasingly being regarded as civil servants (Jones, 1983 : 134).

The assimilation of chiefs into state administration is ascribed to the following factors (Jones, 1983 : 135):

- The chiefs were subjected to the hierarchical controls of the public service in the same manner as all other members (officials). The tribal leaders were accountable to the District Commissioner and through him/her to senior officials in the Ministry of Local Government, Lands and Housing.
- The conversion of the chiefs to civil servants required that they be appointed to their office and conversely liable for dismissal, even though



chieftainship was customarily based upon hereditary title and tribal sanction.

- In order for the chiefs to be incorporated into the state administration, it was necessary to give them the formal conditions of service, which prevailed in the rest of the public service. Previously the chiefs were not bound to any conditions of service laid down by the Protectorate.

Therefore, since independence the traditional leaders of Botswana have become state functionaries and like other civil servants they are part of a Ministry and accountable to a superior officer. Once appointed they are paid according to a public service salary scale, receive annual increments on recommendation, and are subject to the conditions of service which are congruous with those of other government employees, including the liability to dismissal for abuse of office (Jones, 1983 : 136).

#### **3.4.1.7 The Chiefs since 1980**

The **Presidential Commission on Local Government Structure**, 1979 was impressed by the overwhelming weight of popular support for the tribal administration in the rural areas and recommended that it should become a strong independent local institution, free from supervision by the district administration and should receive far more resources.

In order to overcome the problem in some districts of strained relations between the district council and the chief, the Commission recommended that the chief should be regarded as the ceremonial leader of the district council rather than an *ex officio* member. This recommendation, however, did not find favour of Government which was of the view that it would confuse their relationship with the councils and would be misunderstood (Government Paper No. 1 of 1981 : 3).

The **Presidential Commission on Local Government Structure**, 1979 also recommended that the tribal administration and its supporting staff needed to be strengthened and provided with better facilities, with conditions and schemes of



service brought into line with those of the other local institutions and the public service, and that officers should be recruited, appointed, promoted, transferred and disciplined by a tribal administration wing of the Unified Local Government Service (ULGS).

According to Reilly & Tordoff (1993 : 156) one difficulty was that the tribal administrations wanted to control their own staff and were afraid that, under a unified service, they might have to accept a non-member of the tribe as tribal secretary. In 1990/91 it was, however, finally decided to transfer responsibility for the administrative staff within tribal administration to the ULGS, the latter therefore becoming responsible for a further five hundred officers.

With regard to these reforms, Sharma (1999 : 73) writes that tribal administration is headed by traditional chiefs whose powers have been reduced but who continue to exercise considerable influence on tribal people in rural areas. The chiefs provide leadership in maintaining customs and traditions, serve as spokespersons for their tribes on issues of a traditional nature, preside over customary courts and over the Kgotla where community views are sought.

In summarising, it can be stated that tribal administration has lost considerable influence and power since Botswana's independence in 1966. The various laws which were introduced took away most of the powers which the chiefs had enjoyed as well as numerous functions which their tribal administrations performed to the extent that their only function of note was to administer the customary law. The chiefs were also assimilated into the state administration and as a consequence were subjected to the same conditions of service as all the other officials. In other words, the chiefs became agents of the government, which entails the deconcentration of authority and power.

The foregoing clearly points to a move towards the centralisation of authority and power by the Government and its agencies. Tribal administration can be classified as a quasi-representative single-purpose local institution.



### 3.4.2 DISTRICT COUNCILS

In this subsection the background, structure, functions and finance of district councils, that is, councils which operate in rural areas, will be addressed.

#### 3.4.2.1 Background

After consultation with the chiefs, the Government (Government White Paper No. 21 of 1964) accepted the recommendations for the introduction of a system of representative local government in rural areas. The new system of local government was consequently brought into operation on 1 July 1966, three months before Botswana gained independence.

The legislation for the new system of rural local government, namely, the **Local Government (District Councils) Law, 1965** and the **Local Government Tax Law, 1965** was a major decentralised reform enacted by the pre-independence government and its implementation is, therefore, not attributable to the British rulers' decision (Jeppe, 1974 : 143).

#### 3.4.2.2 Structure

The **Local Government (District Councils) Law, 1965** makes provision for the establishment of a non-racial, representative and responsible system of local government in the rural areas of Botswana. There are nine units of rural local government in each of which a district council was established by Special Order 5.4 published in April 1966 in terms of Section 4 of the aforesaid Law.

The geographical characteristics outlining the nine districts of Botswana are depicted on Map 3.1 (Reilly & Tordoff, 1993 : 145).



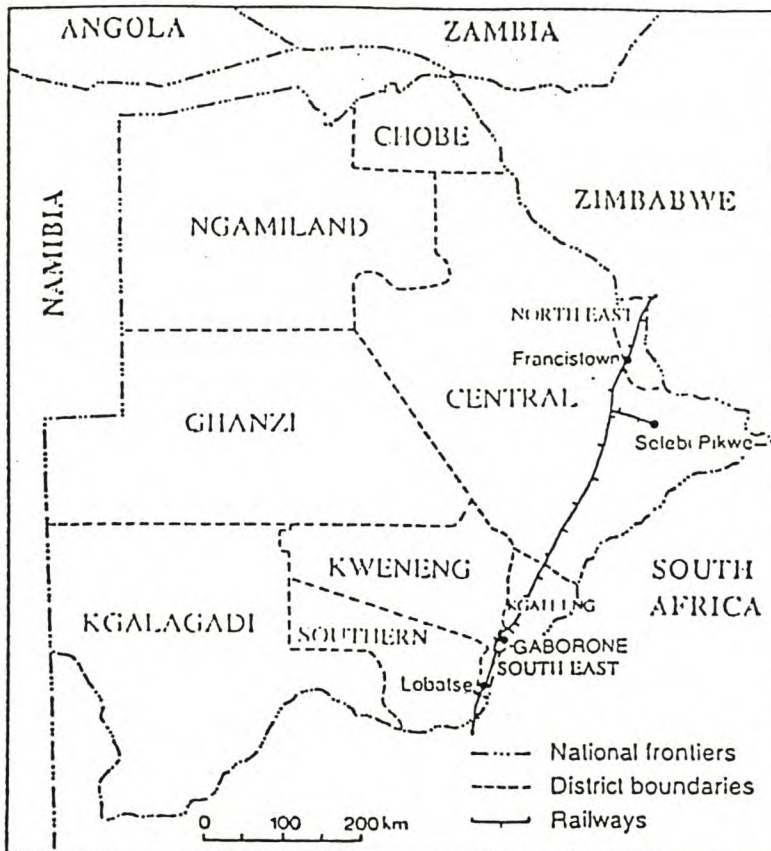
**Map 3.1 : Botswana**

Table 3.1 shows that the nine district councils, which were established in terms of Section 4 of the **Local Government (District Councils) Law, 1965** vary enormously in area, population and the resources at their disposal (Tordoff, 1988 : 196).

**Table 3.1 : Comparison of District Councils**

Council Name	Area (km <sup>2</sup> )	Population (1986 est.)	Recurrent Estimates (Pula) 1986-1987			Development expenditure, 1979-1984 (Pula)
			Income	Expenditure	Deficit	
Central	142,669	364,371	2,345,200	12,335,820	9,990,620	14,518,000
Ghanzi	117,910	22,149	513,900	2,716,670	2,202,770	2,290,000
Kgalagadi	110,100	28,931	377,650	3,124,240	2,746,590	2,331,000
Kgatleng	7,600	49,545	485,210	2,730,890	2,245,680	2,453,000
Kweneng	38,120	138,757	914,100	4,866,300	3,951,400	5,618,000
North East	5,323	42,032	334,120	2,444,610	2,110,490	1,966,000
North West	130,087	86,225	641,360	4,231,520	3,590,160	6,357,000
South East	1,492	37,185	390,370	1,894,910	1,504,540	1,367,000
Southern	26,876	135,848	640,770	5,114,200	4,473,430	6,031,000
	580,177	905,043	6,643,480	39,459,160	32,815,680	42,931,000

Until November 1969, chiefs were the *ex officio* chairpersons of five of the district councils. Since then, however, all the chairpersons have been elected by the respective councils (Jeppe, 1974 : 144).

The composition of district councils is independently determined by every establishing order under the abovementioned Law, and is subject to local circumstances, for example, size of area, population and existing demographic and/or socio political divisions. The councils vary in size, from the central district with thirty-two elected members, five nominated and one *ex officio*, namely, the chief, to the North East district, with only seven elected and five nominated members (Reilly & Tordoff, 1993 : 157).

The composition of every district council and the manner of election of members of such a council is prescribed in terms of Sections 13 and 14 of the **Local Government (District Councils) Law, 1965**. The qualifications for membership of district councils are the same as for the electorate, namely, to be registered as a voter in or for the particular area, and members of district councils hold office for three years (Sections 7 and 8 of Law No. 35 of 1965). The chairpersons of district councils are elected by the members thereof unless the president has appointed a chairperson either *ex officio* or by name, while the vice-chairpersons are elected by the members of the district councils (Sections 11 and 12 of Law No. 35 of 1965).

Thus, it can be stated that the nine district councils in Botswana vary substantially in area, population, composition and available financial resources. The district councils are single-tier representative general-purpose structures of rural local government.

#### **3.4.2.3 Functions**

The district councils have a general responsibility for ensuring order and good government in their areas, which vary in size and population as indicated in the previous subsection.



Their statutory functions or responsibilities include primary education, public health, sanitation, self-help housing areas, markets, abattoirs, social and community development, remote area development, public water supplies and the construction and maintenance of rural roads. Parliament decides which legal powers and responsibilities can best be handled by the councils (Egner, 1986 : 20).

According to Reilly & Tordoff (1993 : 158-159) the provision of primary education facilities is traditionally the council's most important statutory function. It has also been one of the more successful. The construction of school buildings and the provision of furniture and equipment, largely done through private contractors, consumed over two-thirds of the council's development budget during the 1970's.

Reilly & Tordoff (1993 : 159) continue that basic health provision is the second major function of district councils. However, unlike the case with education, the health posts and clinics are run by nursing staff, who are controlled by the councils, but have to work closely with professional staff from the Ministry of Health.

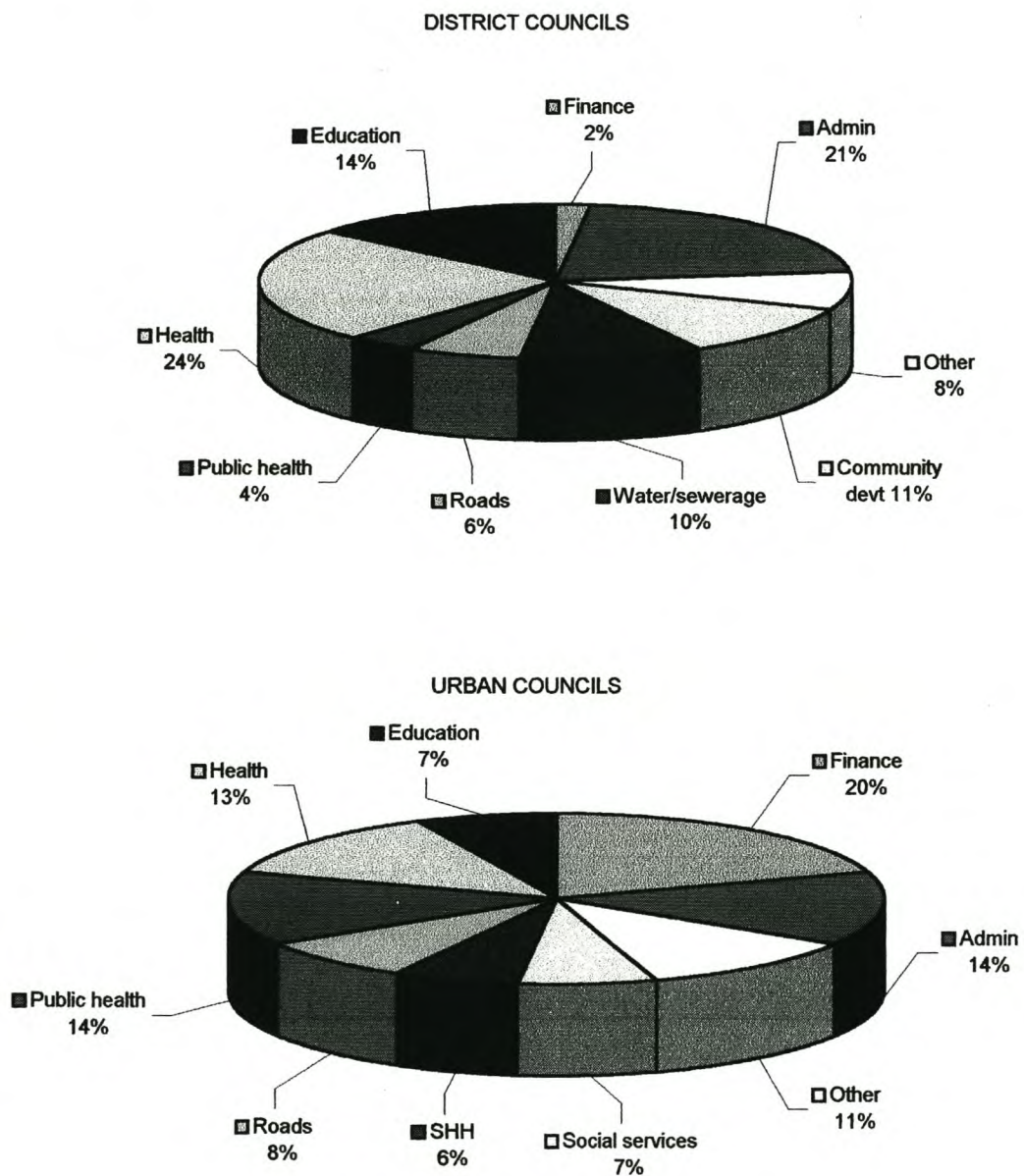
Rural roads are in theory a district council responsibility, but in practice all roads are constructed by the Ministry of Works and Communications, who also maintains most non-gazetted roads on behalf of the councils. The councils themselves neither have the capacity to build nor maintain roads (Reilly & Tordoff, 1993 : 159).

The fourth statutory responsibility of district councils is the operation and maintenance of domestic water supplies in all but fifteen major villages. The operation basically comprises looking after the diesel engines that drive the borehole pumps, which has been carried out extremely inefficiently by untrained, poorly supervised, and low-paid council employees, called pumpers. The maintenance of both the engines and pumps and the reticulation schemes has to be done by the Department of Water Affairs as most councils do not have maintenance units of their own, whilst the others are highly dependent on central agencies for advice and spare parts (Reilly & Tordoff, 1993 : 161).

Reilly & Tordoff (1993 : 161) write that the fifth statutory function, community development, is the district councils' least successful, suffering from a shortage of qualified staff, poor local leadership, and virtually no professional guidance from central government.

Figure 3.4 shows the breakdown by function of the 1990/91 budgeted expenditure for district councils as well as urban councils (NDP 7; 1991 : 457).

**Figure 3.4 : District and Urban Councils**





Since 1966, district councils have gained some new functions, namely, control of remote area development in 1978, and of regional health teams in 1986 whilst losing other functions to the Government, such as the control of permanent staff to the Unified Local Government Service (ULGS) in 1974, primary school teachers to the Unified Teaching Service (UTS) in 1975, trade licensing to the Ministry of Commerce and Industry in 1972 and of Wildlife to the same ministry under the Unified Hunting Regulations of 1979 (Egner, 1986 : 20).

**The Presidential Commission on Local Government Structure, 1979** expressed the view that district and urban councils already had enough important statutory responsibilities which they are still unable to manage effectively. Although they might handle a few additional functions, such as the issue of trade and liquor licences, the essential task was to strengthen the capacity of these councils to cope with their present responsibilities rather than asking them to do more.

In concluding, Sharma (1999 : 75) writes that the overall capacities of district councils are limited in terms of providing services, planning and implementing development projects and assuming additional responsibilities.

Therefore, it can be stated that the statutory functions delegated to the district councils are limited in terms of skill requirements, support for the execution of which is received in varying degrees from the central government and its agencies. The district councils have also lost certain functions to the central government and its agencies due to a lack of financial capacity and skilled human resources.

#### **3.4.2.4 Finance**

In terms of Section 41 of the **Local Government (District Councils) Law, 1965** district councils derive their revenues from the following sources:

- local government tax as the council is authorised by law to collect from the inhabitants of the area in respect of which it has been established;
- rates which the council is authorised by law to impose;



- rents from property owned or administered by the council;
- monies derived from licences or permits issued;
- interest on investments;
- royalties which by law may be payable to or receivable by the council;
- donations, contributions and endowments;
- grants which the government may make to the council; and
- any other monies which by law may be paid to or received by the council.

The district and urban councils remain financially under-resourced, though as Table 3.2 shows, some councils are much better off than others, the result of a somewhat haphazard system of resource allocation (Reilly & Tordoff, 1993 : 159-160).

**Table 3.2 : Summary of Recurrent and Capital Income and Expenditure for the Financial Year 1987-88 (Pula)**

	Recurrent			Capital	
	Income	Deficit Grant	Expenditure	Income	Expenditure
<b>District Councils</b>					
Central	2,453,688	13,581,609	18,719,346	11,912,823	10,422,921
Ghanzi	556,959	3,279,285	3,693,764	3,442,861	3,040,529
Kgalagadi	459,147	3,688,041	4,444,527	6,459,071	3,307,026
Kgatleng	479,540	3,031,889	3,411,731	3,027,795	1,606,203
Kwaneng	888,543	6,621,765	7,527,089	6,119,572	5,913,302
North East	337,836	3,041,947	3,604,014	2,195,671	2,268,236
North West	678,685	5,537,434	5,573,566	7,372,515	5,227,715
South East	417,505	2,002,938	2,615,523	1,935,612	665,743
Southern	808,275	5,550,504	6,536,146	7,876,648	5,544,885
<b>Totals</b>	<b>7,079,878</b>	<b>46,335,412</b>	<b>56,124,706</b>	<b>50,342,568</b>	<b>37,996,560</b>
<b>Urban Councils</b>					
Jwaneng	1,075,068	1,205,000	2,382,030	108,860	783,099
Lobatse	1,941,926	970,763	2,847,426	1,578,795	2,039,973
Francistown	2,477,987	2,700,000	6,615,910	1,493,246	2,309,484
Gaborone	9,465,424	1,666,643	12,136,554	4,280,345	3,614,191
Selebi-Pikwe	2,551,313	1,523,577	4,726,393	2,093,050	1,300,528
<b>Totals</b>	<b>17,511,718</b>	<b>8,065,985</b>	<b>28,708,313</b>	<b>9,554,296</b>	<b>10,047,275</b>
<b>Grand Totals</b>	<b>28,871,795</b>	<b>58,368,780</b>	<b>90,406,603</b>	<b>NA</b>	<b>NA</b>

The recurrent expenditure of district councils far exceeds the amounts which they are able to raise. The sharp fall in the revenue of district councils in 1988/89 can be ascribed to the abolition of the local government tax in 1987. Though the urban councils were also adversely affected by the abolition, their revenue held up better due to the rapid increase in the number of properties and hence the revenue from property rates (NDP7; 1991 : 455).



The revenue and expenditure of district and urban councils for the financial years 1985/86 to 1989/90 respectively is depicted in Table 3.3 (NDP 7; 1991 : 455-456):

**Table 3.3 : Revenue and Expenditure - 1985/86 to 1989/90**

	1985/86	1986/87	1987/88	1988/89	1989/90
<b>District Councils</b>	<b>Pm, constant 1990/91 prices</b>				
Revenue:					
NDP 6 forecast	8 438	8 438	8 438	8 438	8 438
Actual	11 026	13 222	11 247	6 653	5 765
Expenditure:					
NDP 6 forecast	60 765	65 736	71 179	77 140	83 666
Actual	61 044	73 430	83 003	94 969	107 665
Revenue compared to expenditure:					
NDP 6 forecast	13,9%	12,8%	11,9%	10,9%	10,1%
Actual	18,1%	18,0%	13,5%	7,3%	5,4%
Deficit:					
NDP 6 forecast	52 328	57 298	62 741	68 703	75 229
Actual	50 017	60 208	71 757	88 017	101 900
<b>Urban Councils</b>	<b>P'000, constant 1990/91 prices</b>				
Revenue:					
NDP 6 forecast	23 113	24 269	25 483	26 248	27 559
Actual	24 706	27 953	23 559	19 420	23 544
Expenditure:					
NDP 6 forecast	28 069	29 224	30 439	31 203	32 515
Actual	30 483	36 323	38 621	44 196	58 404
Revenue compared to expenditure:					
NDP 6 forecast	82,3%	83,0%	83,7%	84,1%	84,8%
Actual	81,1%	77,0%	61,0%	43,9%	40,3%
Deficit:					
NDP 6 forecast	4 956	4 956	4 956	4 956	4 956
Actual	5 776	8 370	15 062	24 776	34 860

According to the National Development Plan (NDP) for the period 1991 to 1997 (Plan 7; 1991 : 455), the NDP 6 (1985 to 1991) envisaged that urban councils would be meeting eighty-five percent of their expenditure from local revenue sources in 1989/90, and in practice, by 1989/90 revenues were only covering forty percent of expenditures, compared to eighty-one percent in 1985/86, primarily due to the abolition of the local government tax in 1987.

The revenue base for the district councils is much weaker than that of the urban councils. It includes abattoir fees, beer levy, clinic fees, impounding fees, rents, sale of consumables, trade licences and water and sanitation fees. In 1989/90 these amounted to just over five percent of the total expenditure budget for the



district councils compared to about eighteen percent in 1985/86 (NDP 7; 1991 : 455).

Local government tax, which was levied in terms of the **Local Government Tax Law**, 1965 and which was a regressive tax on income was the main source of revenue for district and urban councils, representing approximately two-thirds of the revenue. About two-thirds of this tax was paid by the persons in formal employment and was fairly easy to collect, as compared with one-third paid by those employed in the informal sector. Local government tax was abolished in 1987 because it was expensive to collect and was not equitable. As a result, the central government has had to increase sharply the size of the annual deficit grant which it makes available to councils. The grant topped eighty percent of the total recurrent expenditure in 1986/87 and rose to over ninety percent following the abolition of the local government tax (Reilly & Tordoff, 1993 : 162).

Sharma (1999 : 76) adds that the abolition of the local government tax further reduced the independent revenue base of councils. With this kind of financial dependence on the central government, the councils are limited in the range and magnitude of their activities and in exercising autonomy with regard to their own policies, plans and projects.

Reilly & Tordoff (1993 : 162) are of the opinion that the district and urban councils for their capital development expenditure rely on domestic development funds for nearly half the total, and on funds from the Swedish International Development Authority (SIDA) and other donors, as well as borrowing from the World Bank, for the remainder.

Rates on land are only levied in urban council areas and though the town or urban councils were adversely affected by the abolition of the local government tax, their revenue held up better due to the rapid increase in the number of properties.

School fees represent the second largest source of income of local authorities in Botswana, namely, some twenty two percent in the 1969/70 financial year.



National Development Plan 7 (1991 : 469) states that the revenue base of local authorities will have to be expanded, failing which there will be an income shortfall that will have to be covered either by additional deficit grants and revenue sharing, or a curtailment of expenditure programmes, or a combination of both.

Flowing from the foregoing, Somolekae (1998 : 64) writes that since the National Development Plan 7, the central government has rededicated itself to ensuring that the financial accountability of district and urban local authorities is raised by increasing the share of local authority revenue attributable to recipients of local services, and by establishing a formula for deficit grants from the Government, which will fix the amount of annual grants so that each local authority must plan its expenditures within financial limits.

The first objective, that is, to ensure that users of local services meet the costs, can be achieved by expanding the revenue base of councils and by establishing a revenue sharing formula which automatically allocates to local authorities an specified share of designated national revenues, which are clearly derived in part from local populations, for example, fuel, sales and income taxes, or are clearly related to national development programmes or policies, such as, basic education or primary health care (Somolekae, 1998 : 64).

In order to widen the revenue base of district and urban councils, a number of additional taxes are being considered by the Government, namely, fuel tax, utilities tax, that is, user charges in respect of electricity and water, turnover tax, the re-introduction of the local government tax, borehole tax, that is, a head tax on cattle, and property tax, that is, the introduction thereof in the districts (Somolekae, 1998 : 66).

Therefore, it can be concluded that district and urban councils in Botswana are financially under-resourced and consequently are dependent on deficit grants from the Government and certain foreign agencies, particularly since the abolition of the local government tax in 1987. The Government is, however, committed to ensuring that the financial accountability of district and urban



councils is increased and is exploring ways to make them financially more viable and independent, which is positive in terms of decentralisation.

In view of the dependence of district and urban councils on central government grants, it can be argued that the degree or form of decentralisation is restricted to that of deconcentration.

### 3.4.3 URBAN COUNCILS

In this subsection the structure, functions and finance of urban councils will be dealt with briefly as their *modus operandi* is similar to that of district councils which have been addressed under subsection 3.4.2 of this chapter.

#### 3.4.3.1 Structure

Town or urban councils are established in terms of the provisions of the **Townships Act** (Cap. 40 : 02) based on Proclamation No 66 of 1955. However, it was not until 1962 that the first township regulations were made and of the three township authorities constituted before 1966, namely, Lobatse, Gaborone and Francistown only the latter conformed partially with the modern conception of a democratically elected local authority. In the other towns, the local authorities were appointed. With the exception of Francistown, the administration of the towns was thus conducted by government district officers (Jeppe, 1974 : 154).

In April 1966 the revised **Town Council Regulations**, 1966 (Cap. 120 of 1966) were proclaimed in terms of which the urban councils of Gaborone, Lobatse, Francistown, Selebi Pikwe and Jwaneng were established. The **Town Council Regulations**, 1966 followed closely the provisions of the **Local Government (District Councils) Law**, 1965. An important difference between the urban and district councils is that the former have elected mayors whilst the latter usually have appointed chairpersons in terms of Section 11 of the **Local Government (District Councils) Law**, 1965.



### **3.4.3.2 Functions**

The most important difference between the urban and district councils in terms of functions is that the former provides public housing and electricity, which district councils do not.

Although the urban councils provide a greater range of services than district councils, the provision of primary education is also their most important function absorbing the largest expenditure (Jeppe, 1974 : 154).

Jeppe (1974 : 155) adds that due to the rapid influx of population into the towns, the councils have to meet increasing demands for primary education and low-cost housing, and for services such as sewerage, refuse removal and street lighting and for highly desirable social services for the population.

Despite considerable differences between the scope and nature of responsibilities of the five towns and those of the nine district councils, their administrative capacity and the problems they face are similar (Reilly & Tordoff, 1993 : 157).

### **3.4.3.3 Finance**

Urban councils have the same sources of revenue as district councils with local government tax, that is, prior to it being abolished in 1987, school fees and beer levies being the largest sources of income. Additional sources of revenue for urban councils which are not available to district councils are the rates on property, abattoir fees, the profit on African beer sales in halls managed by urban councils and self-help housing service levies (Jeppe, 1974 : 154 and Somolekae, 1998 : 66).

In summary, town or urban councils, whilst suffering from the same maladies as the district councils, provide a greater range of services and are better off in terms of financial resources due to the income derived from rates on property. Urban councils can be classified as representative single-tier general-purpose institutions.

### 3.4.4 LAND BOARDS

In this subsection the structure, functions, finance and defects of land boards will be discussed.

#### 3.4.4.1 Structure

Land in Botswana is divided into three categories. Tribal land covers seventy one percent, state land twenty three percent and freehold land six percent of the total area in 1976 (Reilly & Tordoff, 1993 : 169).

Nine land boards were established in terms of Section 3 of the **Tribal Land Act**, 1968 to take over the responsibility for the allocation of tribal land from the chiefs and tribal authorities. In terms of Section 3 of the said Act, members, other than ex-officio members, can either be appointed or elected. These land boards became operational in 1970 and a further three were established in 1976.

The twelve land boards are the statutory land allocating authorities which took over the trusteeship of tribal land from the chiefs in 1970 and operate through thirty five subordinate land boards established since 1973 in terms of Section 19 of the **Tribal Land Act**, 1968.

According to Reilly & Tordoff (1993 : 169) land boards were established ostensibly because the traditional system, whereby the chief held land in trust for the use of tribesmen and allocated it through a type of ward headman known as *balebaledi*, had become too inefficient and corrupt.

#### 3.4.4.2 Functions

Initially the land boards were highly dependent upon the district councils for accommodation, office facilities, transport and staff, but with the realization of the key role of the boards in implementing the **Tribal Grazing Land Policy** (Government Paper No. 2 of 1975) and the emergence of the Arable Land



Development Policy, they became involved in land-use planning and their own capacity improved (Reilly & Tordoff, 1993 : 170).

The land boards received technical advice and assistance for the execution of their functions from District Officers (Lands) on the staff of the District Administration, administrative assistance from the District Council Secretary, who was officially the Board Secretary and financial assistance from the District Council Treasurer, who accounted the revenues of the boards (Tordoff, 1988 : 193).

#### **3.4.4.3 Finance**

In terms of the provisions of Section 36 of the **Tribal Land Act**, 1968 every land board must establish a fund into which it must deposit any monies which may accrue to it under any grant or which otherwise may be payable to it. No monies may be paid out of the fund except to meet expenditure which the Minister of Local Government, Lands and Housing has certified as being a proper charge on the fund.

Monies standing to the credit of any fund may be appropriated by the said Minister to the revenues of the district council where the Minister is satisfied that the fund monies are surplus to the requirements of the land board. The accounts of a land board are subject to audit in such manner as may be prescribed.

Land boards have a limited revenue base, consisting mainly of leases, rents, hunting concessions, application fees and sale of property. Those land boards which have game reserves and land demarcated for farms are better off than the ones with greater populations within their areas of jurisdiction (NDP 7; 1991 : 455).

#### **3.4.4.4 Defects**

Complaints from villagers against the land boards included gross unfairness in the allocation of land, carelessness and ignorance by the land board and

subordinate land board members in carrying out their duties, a lack of consultation with neighbouring land users and ward headmen (*balebaledi*), poor initial adjudication and subjective judgements in appeals, too little regard for individual preferences and too much influence by politicians and public officials (Reilly & Tordoff, 1993 : 170).

At a higher level, the **Presidential Commission on Local Government Structure**, 1979 (paragraph 5.01) received complaints about inefficiencies, delays and bad decisions resulting from ignorance and a lack of commitment by land board members, too little delegation by the land boards and organisational problems, such as most of the staff being untrained and the boards not having their own facilities.

According to Reilly & Tordoff (1993 : 171) the Government took a serious view of the defects of land boards, probably because of their effect on the establishment of commercial ranches that were of direct personal interest to the elite.

Thus, land boards were established to allocate land for residential, commercial, industrial, arable and grazing purposes. Land boards are largely dependent on the assistance provided by central government agencies for the execution of their day to day activities. Further, the land boards have a limited financial base and are consequently heavily dependent on the Government for grants, that is, similar to the position of the district and urban councils. Land boards can be classified as single-tier quasi-representative special-purpose local authorities.

#### **3.4.5 DISTRICT ADMINISTRATION**

In this subsection the developments in district administration will be addressed over four time frames, namely, pre-independence, 1966 to 1969, 1970 to 1979 and since 1980 to 1999.



#### **3.4.5.1 Pre-independence**

Prior to independence the District Commissioner (DC) was the senior government representative in the district, enjoying considerable power and prestige. As elsewhere in Africa, he or she was vested with extensive administrative and judicial powers including the supervision of the tribal administration (Reilly & Tordoff, 1993 : 172).

The eleven administrative districts of Botswana do not fully coincide with the areas of district and urban councils, but the headquarters of these councils and those of district commissioners are in the same towns and villages throughout the country. The overall control that district commissioners had over tribal administration before independence in 1966 did not extend to the new district and urban councils which were established in that year (Jeppe, 1974 : 155).

#### **3.4.5.2 1966 to 1969**

During the period 1966 to 1969, district commissioners had no legal standing in the new local government system. They were not members of the district and urban councils nor did they have any right to exercise control over councils or their staff. At this stage the district commissioners acted as the field link between the Government and occasionally served as informal advisers at the request of councils (Jeppe, 1974 : 155).

The district commissioner was the chief executive and legal officer of the Government at district level. His/her most important duties were to preside over the local courts in civil and criminal matters, to act as administrative control and guidance officer to the other field staff of government departments and to execute certain administrative functions, such as registration of births and deaths and the conduct of elections (Jeppe, 1974 : 155). However, by the end of the 1960's the Government was becoming concerned by the resultant lack of co-ordination in the administrative districts between the district councils, departmental field officers and other local authorities (Reilly & Tordoff, 1993 : 172).



Thus, it can be stated that the foregoing is a typical example of deconcentration of governmental powers and functions which was prevalent in most former British colonies in Africa.

#### **3.4.5.3 1970 to 1979**

With the view to improving co-ordination in the administrative districts, the Government in 1970 made every district commissioner an *ex officio* non-voting member of the district council concerned and introduced district development committees as advisory bodies under the chairpersonship of district commissioners to achieve this end (Egner, 1986 : 33).

Egner (1986 : 34) continues that district development committees comprise heads of government departments at district level, for example, medical, veterinary, wildlife, and education officers plus council, tribal administration and land board representatives. The functions of these committees are to:

- serve as planning bodies for the district;
- co-ordinate the work of the various central and local government agencies; and
- prepare and oversee the implementation of district development plans incorporating the plans of all central and local government agencies operating in the district.

The implementation of district development plans for whose preparation the district development committees are responsible is the joint responsibility of the district commissioner and the council secretary for the district. The committees are not implementing agencies nor are they directly responsible for the expenditure of capital development funds (Egner, 1986 : 34).

In 1970 the Government decided to create the post of District Officer (Development) to assist the district commissioner with the mechanical aspects of development planning, and in 1975 that of a District Officer (Lands) to help implement the Tribal Grazing Lands Policy (Tordoff, 1988 : 188).



#### 3.4.5.4 1980 to 1999

The continued existence of the post of District Commissioner and where to place the District Officer (Development) and the District Officer (Lands) were hotly debated issues towards the end of the 1970's. The two fundamental alternatives were to abolish the district administration as a separate district institution or to allow it to continue to exist in a modified form. On the one hand, it was argued that the district administration represented an unwarranted intrusion by Government into local affairs and that its main functions should be assumed by the district council. On the other hand, the main thrust of the argument for the retention of some form of district administration was that the Government was more likely to delegate authority and the necessary resources to districts if trusted civil servants were in overall charge of co-ordinating development planning, rather than local authorities whose motives and competence were often suspect (Reilly & Tordoff, 1993 : 174-175).

These arguments were put to the **Presidential Commission on the Structure of Local Government**, 1979 which recommended the retention of the district administration due to the job load of District Council Secretary, joint planning process, donor missions and research agencies, dual loyalty, institutional balance, delegation from Government and emergencies. In its White Paper on the **Local Government Structure**, 1981 (No. 1 of 1981) the Government accepted the Commission's recommendation and that concerning the need to appoint a more senior officer to represent it at district level and to increase that officer's developmental role.

Reilly & Tordoff (1993 : 175) state that eventually, with effect from 1 April 1986, the Government upgraded the posts of District Commissioner, though not necessarily their incumbents, to that of Under Secretary of State which was one scale higher than that of district council chief executive officers.

In May 1986 the Ministry of Local Government, Lands and Housing instructed all senior officers in charge of government departments to attend district development committee meetings, and empowered the Under Secretaries,



previously known as District Commissioners, to take action against any officer who, without good reason, did not comply (MLGL Circular No. 29 of 1986). Reilly & Tordoff (1993 : 176) view this instruction as an effort to strengthen the hands of the Under Secretary in his/her capacity as the most senior government representative in the district and the co-ordinator of district development.

According to Reilly & Tordoff (1993 : 180) the effect of the measures taken in the 1980's has, by and large, been to tilt the balance between the four local government institutions in favour of district administration, that is, strengthening the authority and powers of government agents, namely, the district commissioners.

In summarising, Sharma (1999 : 73) writes that the district administration exercises delegated authority from the central government and performs a central co-ordinating role in the decentralised district planning and development. The District Commissioner chairs the District Development Committee, which consists of senior representatives of district organisations involved in development activities.

Thus, the district administration or district commissioners enjoyed considerable powers and status in the pre-independence era, as was the case in most of the other former British colonies in Africa. However, since independence the powers and status of the district commissioners were diminished to the extent that their main functions were to preside over local courts and assist government officials in the districts with administrative tasks.

The role of the district administration was given some impetus and increased status in the 1980's primarily with regard to development planning and related issues. The increased powers given to the district commissioners can largely be ascribed to the lack of skilled human resources and consequent proven incompetencies of the district councils.



This type of deconcentrated local institution can be classified as a non-representative special-purpose local authority.

### **3.5 EVALUATION OF LOCAL INSTITUTIONS**

Within ten years of independence most district councils throughout Africa were shorn of much of their autonomy as the new leaders adopted a variation of the French colonial prefectoral system of government. However, in Botswana, the district councils continue to perform important political and administrative functions (Picard, 1979 : 285-286).

According to Picard (1979 : 286) the resilience of district councils in Botswana can be ascribed to a combination of political factors, namely, they

- were strengthened as a result of the chronological sequence of the evolution of local government, in tandem with national political structures, prior to independence in 1966;
- were defended by their parent Ministry of Local Government, Lands and Housing as part of a bureaucratic disagreement in Gaborone with the Ministry of Finance and Development Planning pertaining to the future role of local government and consequently the initiation of policy and the allocation of resources; and
- have profited from the openness of the multi-party system, since there is general tolerance of political opposition at local and national levels, that is, as long as this provides no serious threat to the grip of the dominant Botswana Democratic Party on the national apparatus of government.

However, the low standard of basic education, the lack of practical training and general inexperience resulted in the inefficient functioning of councils, corruption and nepotism was also prevalent in the councils. Improvement in the functioning of councils in the five years since their inception has been slow. In order to combat this inefficiency supervisory functions have been granted to district commissioners over councils in rural areas resulting in even closer scrutiny of their activities by the Government (Jeppe, 1974 : 157).



In concurring, Wunsch (1999 : 19-20) adds that financial administration is the weakest point of local governance followed by personnel management and the management of information systems. The Consolidated Annual Report on the Audits of the Accounts of Local Authorities in Botswana for the year ended 31 March 1990 (1992 : 5) states that it is disquieting to note that only three of the fourteen district and urban councils have submitted their final accounts for the year ended 31 March 1990 within the statutory time limit.

According to Reilly & Tordoff (1993 : 150) the tribal administrations, land boards and urban and district councils all play an important role in providing services, executing statutory functions, and, especially in the case of the councils, assisting in the formulation of public policy.

Tordoff (1994 : 564) and Reilly & Tordoff (1993 : 150), however, state that despite this reasonable record compared with other African states, these local institutions are far from healthy. They are inefficient, poorly staffed, under-financed, badly managed, and barely able to carry out their statutory functions without considerable assistance from central government agencies.

## **3.6 EVALUATION OF DECENTRALISED REFORMS**

In this section the decentralised reforms pertaining to the criteria for comparison identified for the study in respect of Botswana will be evaluated, namely, political system, local political structure, functions and finance.

### **3.6.1 POLITICAL SYSTEM**

A striking feature of most of the ex-colonial administrations in Africa, such as Botswana, is the continuing influence of the colonial past and inheritance of the administrative behaviour, procedures and systems of government (Picard, 1981 : 98).

Botswana is a parliamentary democracy wherein executive power vests in the president, assisted by a vice president and cabinet. The National Assembly is



the supreme legislative body and elects the President. The Government must consult the House of Chiefs on all matters relating to chieftaincies and changes to the Constitution. The judicial system includes magistrates courts and the High Court.

Local government is not enshrined in the Constitution of Botswana as a sphere of government (Kurian, 1998 : 86).

According to Hague & Harrop (1987 : 59) only a few developing countries have managed to operate a liberal democratic form of government uninterruptedly since independence. These include Botswana and Gambia in Africa.

Hague & Harrop (1987 : 60-61) describe the political system found in developing countries known as "competitive oligarchy" as an important transitional stage in the political development of many societies, as they move away from purely traditional rule. In a competitive oligarchy the structure of leadership has become both complex and variable and the content for power is fairly open and legitimate, however, mass involvement in the political system remains distinctly limited. The competitive oligarchy rests upon a passive social base and is essentially the political projection of dominant economic élites. As the social structure changes, and, in particular, as the cities grow and rural isolation diminishes, the political system undergoes change. With increased pressure from below, political systems that were never very liberal have become authoritarian rather than democratic in most cases.

Since Botswana has a dominant one-party that lacks any overriding ideology or mechanism to communicate politically within the country, the surface pluralism of an active and articulate local government masks an underlying administrative unity. Three studies of Botswana revealed that political élites are content to leave the making of decisions mainly to administrators with whom they share a number of socio-economic characteristics. They are all members of a well educated minority that controls much of the cattle industry and related sectors in the domestic economy (Picard, 1979 : 305).



Morgan (1978 : 1) states that there has been a steady move toward a high degree of centralisation in Botswana since independence despite the official rhetoric of intent to develop institutions of local governance and increase local administrative capacity. Though justifications for this retreat have always been couched in terms of the administrative incapacity and lack of skilled staff of local councils to carry out their functions efficiently, it appears that the Government has actually been responding to essentially political criteria in these moves.

In conclusion, it can be stated that Botswana is a former British colony with a unitary system of government and complies with most of the characteristics of a competitive oligarchy. Botswana is a developing country in whose Constitution there is no provision made for a local level of government. However, the intergovernmental relations can be described as one of dominance by the central government with limited autonomy to local government.

### **3.6.2 LOCAL POLITICAL STRUCTURE**

Botswana comprises two spheres or levels of government, namely, central and local. At the local level of government there are four forms of institutions, namely, tribal administrations (chiefs), councils (in rural or urban areas), land boards and district administrations (district commissioners).

The sub-chief Kgotla, sub-land boards and village development committees that exist cannot be construed as a second tier of local government, but rather as an extension of, for example, the tribal administration, land boards and district administration.

The councils in Botswana are representative general-purpose local authorities whereas the tribal administration, land boards and district administration are, in essence, special or single-purpose authorities, the latter of which is non-representative.

In a unitary state, such as Botswana, sub-national governments, whether regional or local, may make policy as well as administer it, but they do so at the pleasure of the central government (Hague & Harrop, 1987 : 176). This implies that the local institutions are mere agents of the central government.



Tordoff (1988 : 183) writes that since Botswana became independent in 1966, a process of promoting decentralisation has been undertaken by a government confident in its own legitimacy and committed officially to a policy of rural development. Reilly & Tordoff (1993 : 180-181) write that the Botswana government remains committed to extending representative local government, but has put greater emphasis on the deconcentration of administrative authority than on political devolution of power.

Since independence in 1966 there has been more transfer of power and authority and responsibility to the local authorities, especially urban and district councils, on a consistent basis than in most African countries. The Botswana model was one of gradual evolution, with only comparatively minor reversals of deconcentration over a twenty-year period. The key has been a responsible distribution of activities between the four local institutions, namely, tribal administration, councils (district and urban), land boards and district administration (Egner, 1986 : 39). In essence this entails the horizontal transfer of powers and functions between the local institutions and not actual decentralisation.

From the foregoing, it may be concluded that the local political structure in Botswana comprises one tier of four different institutions of which the councils are representative general-purpose authorities, the district administration is a single-purpose non-representative entity and the land boards and tribal administrations are quasi-representative single-purpose authorities.

It can also be concluded that the Government has, since independence, regarded the local councils as its agencies and has deconcentrated power to the local sphere of government through the district commissioners.

### **3.6.3 LOCAL FUNCTIONS**

Since independence in 1966, the chiefs (tribal administration) have experienced an erosion of their traditional powers, all the more noticeable in the light of their previous hegemonic position (Jones, 1983 : 133).



Jeppe (1974 : 157) writes that improvement in the functioning of district councils in the first five years since their inception in 1966 has been slow. In order to combat this inefficiency supervisory functions were given to district commissioners over councils in rural areas resulting in even closer scrutiny of their activities by the Government. Morgan (1978 : 1) adds that as the Government has changed its mind about local government and redirected authority to district commissioners and central ministries, the effect on councils has been to retard the building of staff confidence, administrative capacity and the responsiveness of local authorities.

However, the district councils have gained some functions, namely, control of remote area development in 1978, and of regional health teams in 1986 whilst losing other functions and powers to the Government, such as, trade licencing and wildlife as well as the control of permanent staff and primary school teachers (Egner, 1986 : 20). However, the overall capacities of district councils are limited in terms of providing services, planning and implementing development projects and assuming additional responsibilities (Sharma, 1999 : 75).

**The Presidential Commission on Local Government Structure, 1979** expressed the view that councils already had enough important statutory functions, which they are still unable to manage effectively and stated that the essential task was to strengthen the capacity of councils to cope with their present functions rather than to ask them to handle additional functions.

Despite a reasonable record compared with other African states, the situation of the local institutions in Botswana was far from being good. They were inefficient, poorly staffed, under-financed, badly managed, and barely able to carry out their statutory functions without considerable assistance from central government agencies (Reilly & Tordoff, 1993 : 150).

Thus, it can be stated that the local institutions in Botswana have lost some functions to the Government and require considerable assistance from central government agencies, such as the Ministry of Local Government, Lands and



Housing, to carry out their existing statutory functions. It can also be stated that the local institutions operate as agencies of the Government in view of the tight controls imposed on their activities, primarily by central field or district staff.

#### **3.6.4 LOCAL FINANCE**

District and urban councils remain financially under-resourced, though some councils are much better off than others, which is the result of a haphazard system of resource allocation (Reilly & Tordoff, 1993 : 159).

Local government tax which was a regressive tax on income and which was the main source of income for urban and district councils and represented approximately two-thirds of the revenue was abolished in 1987 because it was too expensive to collect and was not equitable. As a result, the Government has had to increase sharply the size of the annual deficit grant which it makes to councils (Reilly & Tordoff, 1993 : 162).

The Government subjects rural and urban councils to tight scrutiny and control. Furthermore, the Government channels approximately eighty percent of development expenditure in the administrative districts to central ministries and departments. The decentralisation of power to popularly elected representatives is not a reality in Botswana (Reilly & Tordoff, 1993 : 179).

However, since the National Development Plan 7, the Government has rededicated itself to ensuring that financial accountability of district and urban councils is raised by increasing the share of local authority revenue attributable to recipients of local services, and by establishing a formula for deficit grants from the Government, which will fix the amount of annual grants so that each council must plan its expenditures within financial limits (Somolekae, 1998 : 4).

Therefore, it can be stated that the local institutions in Botswana are still under-resourced and dependent on deficit grants from the Government. Furthermore, the Government enforces strict financial control measures on the councils and that the extent to which the councils are dependent on grants from the



Government is not conducive to either the devolution or delegation of any further powers to local government.

### 3.7 SUMMARY

Several decentralised reforms to the system of local government in Botswana have taken place since independence in 1966, the most important of which was the introduction of a new system of representative local government in terms of the provisions of the **Local Government (District Councils) Law, 1965** and the **Town Council Regulations, 1966**, that is, the establishment of district and town or urban councils.

The chiefs retained their traditional status as tribal rulers, but the representative general-purpose district and urban councils became the local government institutions providing all the facilities and services. The chiefs lost their local government powers and functions and subsequent decentralised reforms, such as the introduction of land boards further diminished the functions and influence of chiefs.

Local government in Botswana has a number of pressing problems since 1966, namely:

- The councils have serious financial constraints and have become increasingly dependent on grants from the Government for their continued existence, particularly since the abolition of the local government tax in 1987;
- The councils are poorly staffed, badly managed and barely capable of carrying out their statutory functions without considerable assistance from the central government agencies. Furthermore, the staff are inadequately trained and the councillors inadequately educated. The councils have in fact lost some functions to the Government for these reasons; and
- The councils are frequently plagued with maladministration, corruption, inefficiency and nepotism.



The aforementioned problems have seriously impaired local autonomy and have compelled the central government not to decentralise any further powers and functions to the local institutions. In fact, the Government of Botswana has become increasingly involved in local government through its various agencies, for example, the District Commissioners, the Unified Local Government Service and the Unified Teaching Service, that is, the imposition of increased controls.

In the ensuing chapter aspects of the decentralised reforms pertaining to local government in another selected developing country, namely, Nigeria will be addressed.



## **CHAPTER 4**

### **LOCAL GOVERNMENT IN NIGERIA**

#### **4.1 INTRODUCTION**

African states usually inherit the political systems and structures of their colonial powers when gaining independence. However, a federal system of government was implemented in Nigeria when it gained independence from Britain on 1 October 1960.

Nigeria is a vast country with a population of some one hundred and thirty million people (1999) comprising approximately two hundred and fifty different racial, cultural, tribal and language groups, being predominantly Moslem in the north and Christian in the south. In order to establish a measure of autonomy and identity, Britain divided its former colony into three regions corresponding to the three major ethnic groups by joining them under a federal constitution.

Due to its diversity, Nigeria has undergone turbulent periods since independence which have impacted on the various structures of local government that have been introduced by the respective civilian and military governments, some of which decentralised reforms can be of relevance in developing an effective system of local government for South Africa.

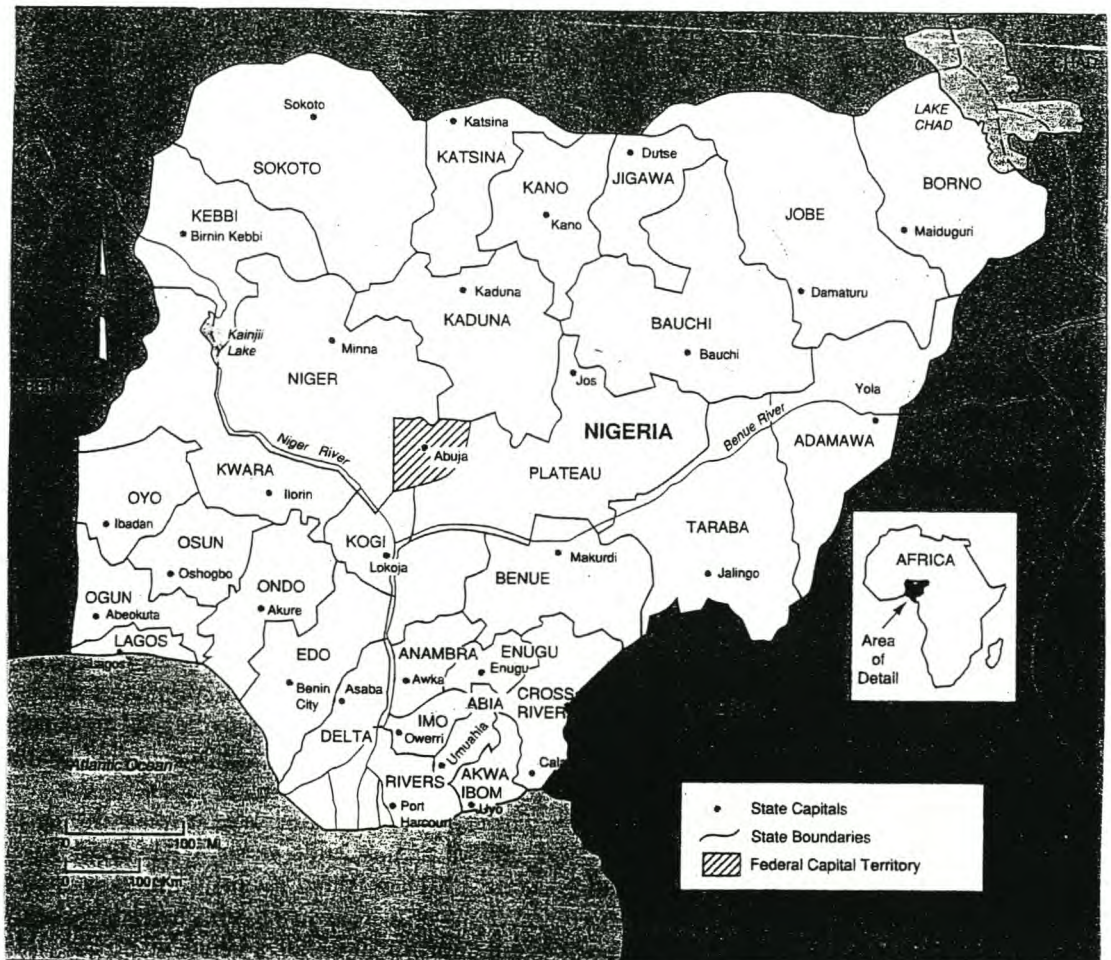
In the sections to follow the historical development of local government, political systems as well as the decentralised reforms to the political structures, which will include the functions and finance of local institutions, will be addressed over four periods, namely, 1960 to 1966 (parliamentary system), 1966 to 1979 (military regimes), 1979 to 1983 (presidential system) and 1984 to 1999 (military regimes). An evaluation will thereafter be made of these decentralised reforms in respect of the criteria identified for comparison with regard to Nigeria for later analysis within the South African context.



## 4.2 HISTORICAL DEVELOPMENT

The geographic characteristics outlining the various states of Nigeria are depicted on Map 4.1: Nigeria.

**Map 4.1 : Nigeria**



In 1939, Southern Nigeria was divided into the Western and the Eastern Provinces, and these territorial divisions together with the northern provinces formed the basis of the three main units of the federation, which evolved as a result of constitutional talks in 1954. Internal self-government was granted to the eastern and western regions in 1957, and the northern region in 1959. Federal independence was achieved in October 1960, and Nigeria became a republic within the British Commonwealth of Nations in 1962. In 1963, part of the western region separated and became a fourth autonomous unit, known as Mid-Western Nigeria (Campbell *et al*, 1965 : 248 - 249). It must be emphasised that after the four regions had been superseded by twelve states in April 1967, the patterns of



local government which had developed certain regional characteristics became more varied and began to differ from one state to another (Wraith, 1972 : 179).

Humes (1991 : 137) writes that in the course of the twentieth century the Nigerian system of local government has evolved from kingdoms governed by chiefs and their councils to native administrations run by chiefs advised and assisted by colonial officers, to local governments whose departments are directed by and are dependent upon central ministries. Furthermore, the functions of local government have expanded and contracted, budgets have risen and fallen, staffing has changed from being answerable to chiefs to being dependent on ministries, and authority has shifted from chiefs to representative elected bodies to direct military rule.

The origin of local government in Nigeria is deeply embedded in the colonial period. The British administration established what was known as "indirect rule". It was a form of local administration in which the British officer superintended the administration. The British Resident supervised the traditional ruler who was in direct contact with the populace. However, the traditional ruler never had legislative powers. The policies were made by the British colonial officers (Ayoade, 1995 : 19).

Idode (1980 : 393) adds that the history of local government in Nigeria has been a turbulent one. In the colonial situation, the colonizers found willing allies in the traditional rulers around whom they built systems of native authorities based on the principle of "indirect rule". Although "indirect rule" proved successful in Northern Nigeria, it was an unwelcome imposition in the Southern part of the country, where it met with bitter opposition.

According to Adamolekun & Ayeni (1990 : 270) the objective of the local governments re-established in Nigeria in the 1950's remained unchanged for eighteen years after independence, that is, until the Constitution of 1979 was implemented. On the whole, the two southern regions which emphasised democratic local self-government with the emphasis on citizen participation continued with the same broad orientation during the immediate post-independence years. Similarly, the post-independence government of the



northern region continued to attach greater importance to the socio-economic mission of local governments than to the objective of public participation. This continuity in policy orientation was largely due to the fact that the political leadership which inherited powers from the British rulers in the 1950's remained in power in the immediate post-independence years.

In the ensuing section the various political systems prevalent in Nigeria since independence will be addressed.

### 4.3 POLITICAL SYSTEMS

Since gaining independence in October 1960, Nigeria has struggled to find a stable framework of political institutions through which to govern. The country has experimented with parliamentary (1960 – 1966), presidential (1979 – 1983) and military (1966 – 1979 and 1984 – 1999) systems of government, which have all operated within a federal system encompassing initially three regions and later thirty states, but no system or set of institutions has brought the degree of stability required. Severe problems such as ethnicity, religion, the civil war, economic inequalities and military *coups de'tat* have directly impinged upon the political processes in Nigeria and have caused severe fluctuations in its functioning (Wright, 1993 : 595).

Adamolekun & Ayeni (1990 : 258) state that the Constitution of 1979 enshrines the activities of institutions such as the civil service, local government, public enterprises, educational institutions, the armed forces, the police, the judiciary and the staff of the legislature. This broad conception of the scope of public administration is not peculiar to Nigeria, as it is found in many other developing countries. However, public administration in Nigeria has some distinguishing features that are traceable to the peculiarities of the country's socio-economic and political environments. The history, structure, and operation of Nigerian public administration sharply exhibit features that arise from the combined impact of a federal and populous society, the legacy of British colonialism, the persistence of political instability, an unreliable dependence on petroleum wealth and the problems of technological underdevelopment.



The failure of the first two republics, that is, 1960 to 1966 and 1979 to 1983, and certain military regimes, can be blamed largely upon poor leadership, selfish interests and gross corruption. Ethnic considerations have also been of paramount importance in climbing the political ladder within any given party, and have often proven to be more important than educational ability and qualifications. The desire to assist people from one's own community provides a strong impulse for all Nigerians, and Western values concerning impartiality and nepotism do not command much respect, or are never properly implemented (Wright, 1993 : 596).

Mahler (1995 : 360-361) writes that when Nigeria has had a civilian government, the Government has been composed of an executive branch, a legislative branch, and a judicial branch. During civilian rule the popularly elected president headed a cabinet having at least one minister from the then nineteen states. Nigeria's judicial system was based upon British common law, but modified by Nigeria's judicial history. The judicial system resembled that of the United States of America, with a Federal Supreme Court, Courts of Appeals, and a Federal High Court. The Supreme Court had original jurisdiction in cases involving constitutional questions. State judicial systems reflecting the federal nature of the regime, were made up of state high courts, magistrates courts, and customary and area (Muslim) courts.

In order to avoid a repeat of the experience which made nonsense of the constitutional guarantee pertaining to a democratically elected system of local government, steps have been taken to ensure that elected councils cannot be arbitrarily removed or dissolved by the state governments. This has been achieved through *inter alia* the **Local Government (Basic Constitutional and Transitional Provisions) Decree**, 1989 (Decree No. 15 of 1989) which provides that the President has the power to dissolve a council. In effect, therefore, the power of dissolution hitherto exercised solely by the state governments is now a concurrent power exercisable only with the approval of the Federal Government (Gboyega, 1995 : 10).

The political authority of local government has been further enhanced by the entrenchment of all local authorities by name in Schedule 1 Part 1 of the Constitution of 1989. The effect of this guaranteed or protected the territorial



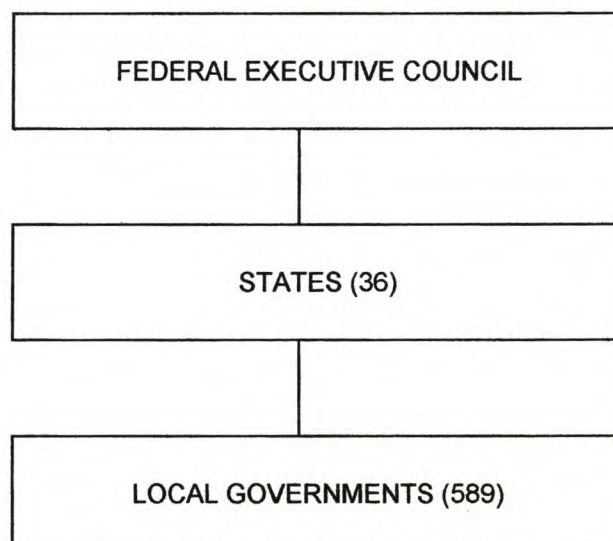
boundaries of local authorities against arbitrary alterations. Boundary adjustments and fragmentation of local authorities are, therefore, subject to constitutional amendments (Gboyega, 1995 : 10).

In October 1995, General Abacha announced a three-year transition that would culminate in civilian rule by 1 October 1998. Steps on the path to civilian rule have been taken, including the establishment of a National Electoral Commission, local elections in March 1996 and the legal recognition of five political parties in September 1996. The draft constitution, however, remains in limbo and the political repression continues largely unabated (Kurian, 1998 : 510).

Despite numerous delays in the transition process, Nigeria finally returned to democratic rule on 29 May 1999, which elections put President Olusegun Obasanjo in power. The Federal Government is run by a Federal Executive Council, which is appointed by the President with the approval of the Senate. The thirty six states are run by elected governors and assisted by state executive councils of commissioners.

Figure 4.1 depicts the hierarchical organisation of the governmental institutions in Nigeria.

**Figure 4.1 : Organisation of Governmental Institutions**





In summarising, it can be stated that, despite being a former British colony, Nigeria adopted a federal system of government in whose constitution the rights and status of local government as a sphere of government are protected. It can also be stated that, as Nigeria was governed by a military regime until 1999, the intergovernmental relations were based on the centralised control of power and authority.

The following section will deal with the various reforms implemented in Nigeria since independence in respect of local political structure, functions and finance.

#### **4.4 LOCAL POLITICAL STRUCTURE, FUNCTIONS AND FINANCE**

In this section the various reforms implemented to the local government structure, functions and finance and aspects related thereto will be addressed over four periods to coincide with the various political systems of government with which the country has experimented since gaining independence in 1960, namely, 1960 to 1966 (parliamentary), 1966 to 1979 (military), 1979 to 1983 (presidential) and 1983 to 1999 (military).

##### **4.4.1 THE FIRST REPUBLIC (1960 - 1966) : PARLIAMENTARY**

The Constitution of 1960 provided for an independent Nigeria with a bi-cameral national parliament in which the lower house was directly elected and the upper house was selected by the regional assemblies. In October 1963 Nigeria amended its Constitution to become a Republic, that is, Nigeria was no longer a Monarchy, but instead was to be headed by an elected president (Humes, 1991 : 144).

Humes (1991 : 144) states that following independence in 1960 the ethnic cleavages and fragile political arrangements precipitated a series of events, including two coups and a civil war, which pre-occupied national and regional governments and adversely affected local government. Idode (1980 : 393) adds that since independence, local governments in Nigeria have undergone a series of changes. These changes include the removal of functions from local governments to the state bureaucracies, the deconcentration of the state



bureaucracies to the local areas, and experiments with modified versions of the American Council-manager and the French Prefectoral systems in several parts of the country.

In the subsections to follow the structures, functions and finance of local institutions in the eastern, western and northern regions over the aforesaid period will be discussed, whereupon a brief evaluation of the local institutions will be made after which some of the defects in local government will be addressed.

#### **4.4.1.1 Eastern Region**

This subsection will deal with the structure, functions and finance of local government in the eastern region.

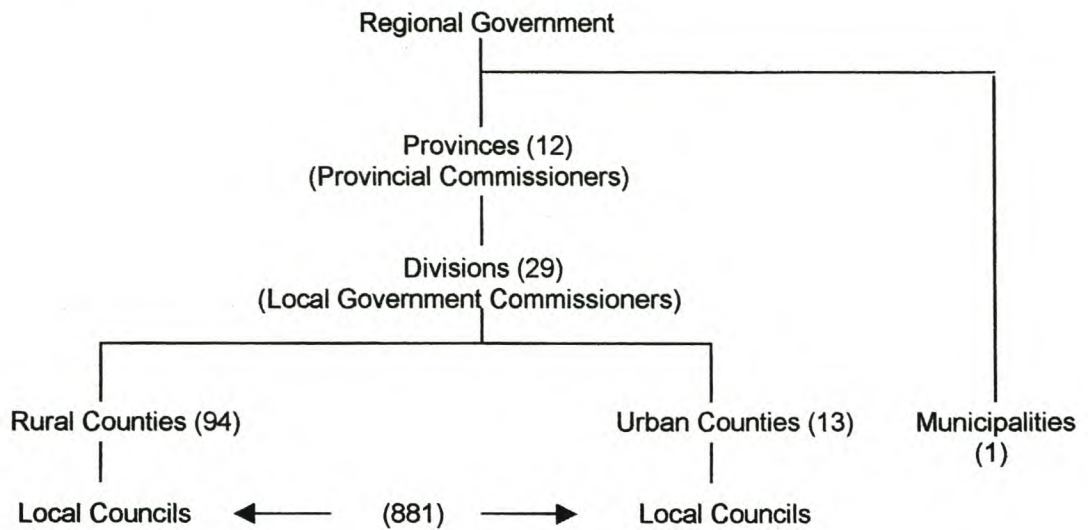
##### **4.4.1.1.1 Structure**

Awa (1964 : 302) states that the government of the eastern region introduced a system of local government under the **Eastern Region Local Government Law**, 1960 (No. 17 of 1960), which placed local administration directly under the regional authority and greatly broadened the basis of popular participation. A three-tier system of local government was established consisting of divisions or divisional commissioners, counties and local councils.

The eastern region was divided administratively into twelve provinces, each of which was under the control of a provincial commissioner who was a political appointee of the Government with the rank of Minister of State. Each province in turn was split-up into divisions of which there were twenty nine in the region at the head of which was a government officer, known as the Local Government Commissioner, who inspected and advised the local government institutions in his or her area (Campbell *et al*, 1965 : 261).

Figure 4.2 depicts the organisational structure of local government in the eastern region (Campbell *et al*, 1965 : 260).



**Figure 4.2 : Eastern Region Organisational Structure**

Local government institutions must, by law contain a majority of elected members. Members may also be appointed to councils by the Minister of Local Government, that is, those persons in the area approved as chiefs in terms of the **Recognition of Chiefs Law**, 1960 (No. 9 of 1960).

Direct control over the activities of councils at provincial level is undertaken by local government commissioners who are divisional administrative officers. The local government commissioners have access to all local council records and accounts, they may attend all council and committee meetings, they must report to the regional government annually on the work of each council and they are the chairpersons of the divisional tender boards. Further control is enforced through budgetary control, annual audit and the award of grants (Campbell *et al*, 1965 : 266 - 267).

#### **4.4.1.1.2 Functions**

The functions of local government institutions are listed in the **Eastern Region Local Government Law**, 1960 and include the development of natural resources, public health measures, child welfare, primary education, maintenance of markets, rural water supplies, conservancy and street lighting. Services are regulated by by-laws promulgated by the councils.



#### **4.4.1.1.3 Finance**

The main sources of revenue for local government institutions are local rates and government grants. Counties are rate collection authorities and local councils precepting authorities. Local governments obtain miscellaneous revenue from market dues, licences, fines inflicted by customary courts and commercial enterprises (Campbell *et al*, 1965 : 264 - 265).

Campbell *et al*, (1965 : 265) state that one aspect of local government finance has been given special attention by the regional government, namely, the letting of local government contracts. The degree of corruption practised by local councillors in this respect led the ministry to impose stringent controls in that all contracts over a certain amount had to be put out to tender.

Thus, local government in the eastern region comprised three tiers, namely, divisions, counties and local councils. The local institutions, that is, the counties and the councils can be classified as general-purpose quasi-representative authorities who derived their revenue primarily from local taxes and grants. The local institutions are subjected to direct and strict control by the regional government agents, that is, the divisional commissioners.

#### **4.4.1.2 Western Region**

In this subsection the structure, functions and finance of the local institutions in the western region will be addressed.

##### **4.4.1.2.1 Structure**

The western region was divided administratively into eight provinces and twenty four divisions. The senior administrative officer of the province was the local government inspector and the divisional officers working under him or her were also local government advisers to the councils in their areas (Campbell *et al*, 1965 : 286).

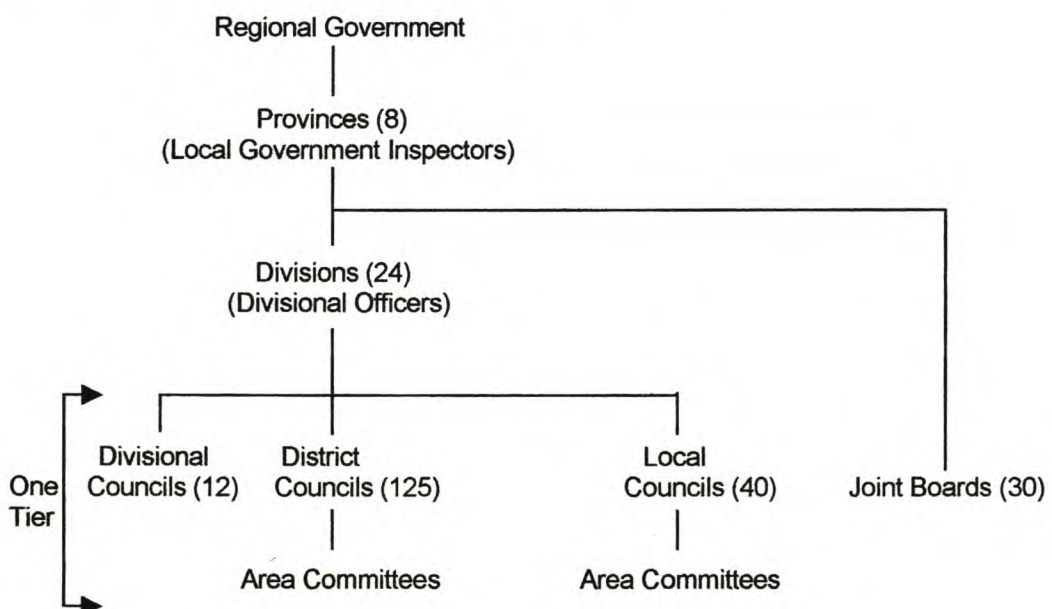


All local government institutions in the western region were established by instrument by the Governor-in-Council, in accordance with the provisions of the **Western Region Local Government Law, 1957** (Cap. 68 of 1957). They are established as divisional councils, district councils (urban or rural) or local councils (Awa, 1964 : 303).

According to Campbell *et al* (1965 : 286) the use of divisional councils has decreased and that where such councils have been abolished, the district councils have become general-purpose authorities. Local councils are established when a small traditionally homogeneous community wishes to preserve its identity, but due to its size cannot pay for all the necessary services in its area. The district council is normally the rate collecting authority, and divisional and local councils precepting authorities. In district and local council areas, where distances or poor roads prevent easy communication, or where there are separate racial groups or clearly defined clans, area committees are established. These are executive bodies which carry out local services on behalf of the parent body, that is, district and local councils.

The organisational structure of local government in the western region is shown on Figure 4.3 (Campbell *et al*, 1965 : 285).

**Figure 4.3 : Western Region Organisational Structure**





Two or more councils may operate a joint service, if so required by the Minister of Local Government. This joint enterprise may be operated either through a joint board, created by legal instrument, or by a joint committee. The revenue of such boards and committees is obtained from the contributing councils and from revenue derived directly from the service operated, for example, forestry reserves and primary school schemes (Campbell *et al*, 1965 : 288).

According to Campbell *et al* (1965 : 291) the western regional government makes extensive use of default powers and where the Governor-in-Council is of the opinion that a council has failed to carry out its duties or to meet regularly, it may be dissolved and a committee of management or a sole administrator appointed to take its place pending a new election.

#### **4.4.1.2.2 Functions**

Sections 62 to 78 of the **Western Region Local Government Law**, 1957 set out the powers and functions of local institutions, which are similar to those in the other regions. As in the case of the other regions, there is a general provision in the said Law that all must maintain order, good government, and prevent crime within the area of jurisdiction. Local institutions are given the right to make provision, through by-laws, to regulate the services which they provide.

#### **4.4.1.2.3 Finance**

The revenue of local institutions is derived from taxes, rates, fees and dues, customary court fees and fines, industrial and commercial undertakings, investments and recurrent and capital grants from the regional government. Property tax is limited to a few urban areas due to difficulties experienced in assessing the values of properties (Campbell *et al*, 1965 : 290).

Therefore, it can be concluded that local government in the western region resembled that found in the eastern region. It comprised two tiers, namely, divisions and below it divisional, district and local councils, the latter three of which are general-purpose quasi-representative units. The regional government agents exercised strict controls over the councils by way of the divisional officers.



#### 4.4.1.3 Northern Region

This subsection will deal with the structure, functions and finance of local government in the northern region.

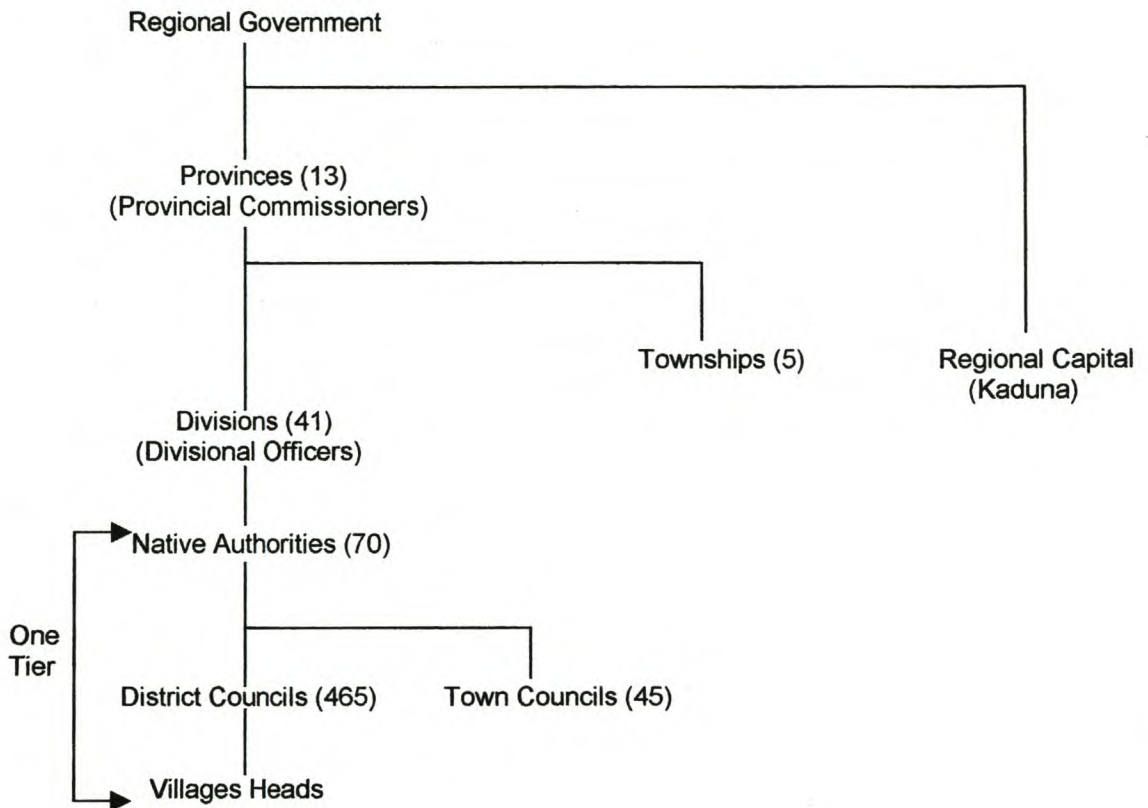
##### 4.4.1.3.1 Structure

The northern region is divided into thirteen provinces, each of which is under the control of a provincial commissioner who is a political appointee with the status of Minister of State, that is, similar to the French Prefectoral-system. The provinces are in turn divided into divisions, each of which is administered by a divisional officer. The divisions are divided into native authorities, which are the basic local government units. There are five townships, which are established by separate legislation and are run by an administrative officer of the Government, who is the "sole authority". Kaduna, the regional capital, has its own distinct form of local government (Campbell *et al*, 1965 : 270).

Awa (1964 : 305) states that the district councils consist of village heads and some members elected from the broad community, who are responsible for administration at district level. Native authorities are empowered to create town and district councils for their urban and rural areas respectively, always with a majority of elected representatives. Humes & Martin (1969 : 282) write that the town and urban councils each has a head, who may come from that area, and who is appointed by the native authority, through its chief or *emir*, with the approval of the regional government. Campbell *et al* (1965 : 275) add that the district councils in turn divide their areas into villages, each of which is in the charge of a village head.

The organisational structure of local government in the northern region is depicted on Figure 4.4 (Campbell *et al*, 1965 : 269).



**Figure 4.4 : Northern Region Organisational Structure**

According to Campbell *et al* (1965 : 271) the main local government institution of the northern region is the native authority, which varies in area, population and wealth. The native authority is built around the traditional authority of a chief or group of chiefs. The authority is general-purpose and has wide implied powers in terms of the **Native Authority Law**, 1954 (No. 13 of 1954).

The **Native Authority Law**, 1954 permitted a remarkable degree of flexibility in the composition of the local institutions as between the respective influences of the chiefs and of traditional, nominated and elected members, and allowed for a gradual widening of their representative character. For example, when the said Law was passed in 1954, three-quarters of the native authority councils had a majority membership comprising chiefs and either traditional or nominated members, but within ten years more than half had an elected majority (Wraith, 1972 : 201).

Thus, local government in the northern region comprises two tiers, namely, divisions and native authorities. The northern region primarily comprised



traditional native authorities with "decentralised" extensions in its districts and towns. Native authorities are general-purpose quasi-representative institutions of local government. As in the case of the eastern and western regions, the regional government through its provincial and divisional officers applies stringent controls over the activities of the native authorities.

#### **4.4.1.3.2 Functions**

Native authorities carry out a wide range of services, the most important of which are: native police forces, native authority prisons, primary education, markets and commercial lorry parks, public enlightenment, child welfare clinics, native courts, rural water supplies, roads, fire brigades, social welfare services and animal health extension work (Campbell *et al*, 1965 : 276).

The main control exercised over native authorities is through its finances. If a native authority fails to make the necessary rules or orders needed to control its functions or services, the Governor may make them on its behalf. The regional government may take legal action against any native authority that wilfully neglects to prevent crime in its area, to follow the directions of the divisional officer when the latter requires the attendance of any person within the control of the native authority, or to revoke or enforce any subsidiary legislation, if so required by the Governor (Campbell *et al*, 1965 : 280).

#### **4.4.1.3.3 Finance**

The main source of revenue of native authorities is community tax, which is payable by all adult males. Nomad cattle owners who do not pay community tax, that is, cattle owners who do not hold land and farms, pay cattle tax, which is a fixed tax per beast owned. Salaried officials of native authorities have their tax deducted monthly through a "pay as you earn" system. Higher income groups are assessed by the regional commissioner of revenue for personal income tax. The basic revenue of the district councils is the "District Council Fund", which is an approved amount per taxpayer of the district paid over by the native authority to the district annually (Campbell *et al*, 1965 : 277-278).



#### 4.4.1.4 Evaluation of Local Institutions

In Southern Nigeria, that is, the eastern and western regions, the system of local government was an adaptation from the British conciliar system. A council with an elected majority and elected chairperson was the local authority. The size and powers of the councils varied according to whether they were divisional, district or local councils, which in turn depended upon the territorial size or rank of the community chieftaincy concerned in the traditional political structure (Gboyega, 1993 : 235).

The native authorities of the northern region did not suffer from the disadvantages of the precept method of tax collection. Although they were less representative in character than the councils in the eastern and western regions, they had the marked advantage of being an institution to which the people have long been accustomed. The authorities did not have to operate in the supercharged political atmosphere current in the eastern and western regions, and consequently they had greater leisure to adapt to gradual reforms (Cowan, 1958 : 136).

In Northern Nigeria the system of local government evolved from the Lugardian<sup>\*</sup> native authority system, which had the advantage that it both reflected and enhanced the traditional authority pattern. The traditional ruler, the *emir*, was the fulcrum of the system and alone, or together with a nominated council of elders, he constituted the statutory local authority (Gboyega, 1993 : 235).

#### 4.4.1.5 Defects in Local Government

According to Olowu (1982 : 346) under the Constitutions of 1960 and 1963 local governments were on the residual list and, therefore, the exclusive preserve of the regional governments, and there was an increasing centralisation in the management of affairs to the regional governments from the local governments.

In the northern region, apart from the preservation of the authority of the traditional rulers and the consequent ease of maintenance of law and order, there was little else of advantage that could be ascribed to the native authority system. The

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<sup>\*</sup> Sir Frederick Lugard was the Governor General of Nigeria in the early 1900's.



system was unrepresentative, being dominated by traditional élites, who owed their position to the pleasure of either the traditional ruler, the regional minister or the premier (Gboyega, 1993 : 236).

Gboyega (1993 : 236 - 237) continues that the effectiveness of local élites was hampered by the general absence of well-trained personnel to run the public services in the region and especially to implement native authority resolutions. Since there was an incapacitating lack of personnel to plan and execute development projects, not much return came by way of visible social welfare or development projects for the revenue contributed to the native authority treasury. This lack of administrative capacity at local level enhanced dependence upon the regional government for the drafting of by-laws, budget formulation, and implementation. The regional government's representatives came to play a large role in the affairs of the locality, both as the government's watchdog at the local level and a guide for local initiative and action.

Rivalries within councils and between the different tiers of local government in Southern Nigeria, that is, eastern and western regions, were so intense that often agreement on minor issues was impossible. Excessive parochialism and an irrational grip of party politics made a mockery of the policy of local government. The type of professional and political leadership needed to provide unity, direction and inspiration to local affairs was absent. Many councillors were uneducated, inexperienced in public affairs and without any visible means of livelihood. An overwhelming majority of councils were financially poor. The intensity of the problems was such that many began to ask whether the transformation of native authorities with limited powers into representative local government councils with few limits on their powers was not too sudden and too drastic (Oyediran, 1974 : 544).

The post-independence record of Southern Nigeria was one of stagnation and corruption in local government. Those in the north performed better as they were able to draw upon the extensive experience of the native authority system, albeit over-dependent on the traditional rulers (Tordoff, 1994 : 557).



In summarising the situation, Mawhood & Davey (1980 : 405) write that the representative council is a mixture of locally elected councillors and central government nominees. Distinctions between central, state and local revenues are blurred, with the use of a single treasury office at the local level, or which has been abolished altogether. The higher executive staff are central civil servants, and the functions of local government usually include all the main developmental services, such as, primary education, child welfare clinics, roads, water supplies, animal husbandry work and agricultural extension.

To conclude, it can be stated that due to a combination of a lack of administrative capacity and skilled human resources, inadequate financial resources, dominance by the traditional élites in the north and fragmentation and excessive parochialism in the south, local government in Nigeria was inefficient, ineffective and controlled or dominated by the regional governments during the period under review.

#### **4.4.2 MILITARY REGIMES (1966 – 1979)**

In the subsections to follow the impact of the military take-over in 1966 and the local government decentralised reforms of 1976 will be discussed as well as an evaluation made of the reforms over the period.

##### **4.4.2.1 Local Government after Military Take-over**

This subsection will deal with the reforms to the structure, functions and finance of local government as a result of the take-over by the military, whereupon a brief evaluation of the reforms will be made.

###### **4.4.2.1.1 Structure**

After a period of national dissent, a coup led by General J A Ironsi in January 1966 established a military government with appointed governors in each region. The new government invested the rehabilitated district officer as administrator in each region with all the responsibilities previously held by the councils (Humes, 1991 : 144).



In the northern region, where some of the native authorities were politically powerful because of the co-terminality of native authority and emirate boundaries, the first local government reforms by the military regime were directed at diffusing the power of the traditional rulers, the *emirs* (Gboyega, 1993 : 237).

A second coup in July 1966 installed Colonel Gowon as head of state. In early 1967, in an effort to strengthen the national government and avert civil war, the military government replaced the regions with twelve states (Humes, 1991 : 144).

Gboyega (1993 : 238) is of the opinion that the reform of the local government system in what was formerly the eastern region began with the introduction of the divisional administration system in the East Central State in 1971, which essentially meant the abolition of the local government system, as civil servants who were appointed Residents, that is, a representative of the Governor of the State, became vested with the powers of a local authority.

During the period of colonial rule the principle influence on the formal arrangements for local government was British. However, the outbreak of civil war, the drive of military administration for political adventurers and the increasing wealth of research into local government from the mid 1960's made Nigerian policy-makers look elsewhere. Four states, that is, three in the former eastern region along with the Mid-west, opted for a system of deconcentration which can be compared to the French Prefectoral system (Olowa, 1982 : 347).

In the former western region, the American Council-manager system was adopted, but that so little decisional autonomy was allowed to the councils and so narrow was the base of participation, that the experiment was seen as a 'tactic of negotiation'. As a result of the excessive bureaucratic control exercised by the Ministry of Local Government, the notion of local government as a power-sharing relationship between state and local communities was defeated (Gboyega, 1993 : 238).

Adamolekun & Ayeni (1990 : 271) are of the opinion that the first ten years of military rule, that is, from 1966 to 1976, witnessed efforts by military politicians to re-orient the local government. In the southern states attention was focused on



"efficiency", and efforts were made to achieve this goal through either the American Council-manager system or through decentralised services of the regional governments at the local tiers. The latter arrangement, which was called "divisional" administration, was in fact deconcentration. In Northern Nigeria, the states, which were established in 1967, adopted the pursuit of local democracy as a goal, and steps were taken to ensure the involvement of the representatives of the people in the management of local affairs.

Thus, the military regimes over the ten year period to 1976 focused on the centralisation of authority by vesting civil servants with the powers and responsibilities previously held by the local authorities or councils, that is, sole administration. A number of the newly formed states implemented systems of local government based on either the French Prefectoral or American Council-manager systems which were aimed at deconcentrating power, that is, through state field administration.

#### **4.4.2.1.2 Functions**

The first military government under General Ironsi in 1966 swept away local democratic institutions along with all representative bodies, and replaced them with "sole administrators" who were administrative officers employed in the regional civil services. This move towards centralisation was enforced by the removal of a number of functions and services from local government jurisdiction (Smith, 1983 : 51).

Humes (1991 : 146) adds that by the end of the 1960's local authorities were reporting fewer local roads, schools and clinics. More abrupt and ominous was the transfer of several local functions away from local government in 1968. Water, prisons and education were taken over by the regional governments, whilst police was taken over by the central or Federal Government. This left local government responsible for courts, local roads, clinics and a few other selected health services.

Therefore, it can be stated that local government lost several important functions to either the state or Federal Government under military rule.



#### **4.4.2.1.3 Finance**

The financial inadequacies of the local authorities also persisted. As part of an attempt to improve the finances of local authorities, some councils were merged so as to consolidate their finances and tenement rating was introduced. The consolidation became a futile economic exercise because no economies of scale resulted from it and the new authorities were made to absorb all the personnel employed by the defunct local authorities (Gboyega, 1993 : 238).

Humes (1991 : 145) states that the loss of revenue from income tax was accompanied by the loss of revenue from grants which was further aggravated at the end of the 1960's, as the local governments were no longer responsible for some of the functions for which they used to receive grants. Furthermore, the decline in funding affected the services the local governments could provide and capital projects were repeatedly delayed and maintenance and operation deteriorated.

Gboyega (1993 : 237) in concurring, adds that long term development planning was hampered by the erratic trickle of grants from the state governments. The absence of an active role for the representative of the state government led to inadequate bureaucratic guidance and oversight. This encouraged corruption and other abuses, which further damaged the public image of the local authorities. Furthermore, the formal relative independence of the local authorities was subverted by the patron-client relationship subsisting between the local and state politicians.

Thus, the financial inadequacies of local authorities deteriorated even further under military rule as they were no longer responsible for certain functions for which they used to receive grants.

#### **4.4.2.2 Evaluation of Reforms**

In evaluating the reforms, Smith (1983 : 61 - 64) writes that the experiments in local government re-organisation carried out between 1968 and 1976 left a number of unresolved problems, namely:



- the urban areas which, under the influence of colonial patterns of administration, became the responsibility of numerous authorities making co-ordinated planning and service provision virtually impossible;
- the staffing situation worsened rather than improved. The exodus of qualified staff for better paid jobs elsewhere in the public service continued;
- the financial position continued to deteriorate. Government grants for capital projects were diverted to recurrent expenditure due to the weak financial resources of local authorities;
- the all-pervasive central control continued. This was the Government's response to the administrative and financial problems of local government. The relationship was one of master and servant;
- the political foundation of local government was still in varying degrees traditional and bureaucratic. There was, however, a strong feeling that responsible government needed to be strengthened by making local government democratic;
- the geographical base of local governments was too small. The dominant opinion was that local authorities should be large to ensure adequate revenues and all that was expected to flow from them, particularly well-qualified personnel.

#### **4.4.2.3 Local Government Decentralised Reforms of 1976**

The 1976 reforms entrenched the representative system as a national norm. The **Guidelines for Local Government Reform** provided that membership of local government councils should be predominantly elected either by direct or indirect elections from local communities (Gboyega, 1993 : 244).

In the ensuing subsections the following aspects will be addressed, namely, the decentralised reforms to the structure, functions and finance.

##### **4.4.2.3.1 Structure**

Following the assassination of General Mohammed in February 1976, the government increased the number of states from twelve to nineteen. Shortly afterwards the government issued the **Local Government Great Reform Decree**



of 1976, which established a new countrywide local government system consisting of a single-tier of three hundred and one general purpose local government units and assigned each a nearly uniform set of exclusive concurrent functions. The reform marked the beginning of a striking reversal in regional/state domination over governmental activity at the local level in Nigeria (Humes, 1991 : 179 and Koehn, 1990 : 26).

According to Olowu (1982 : 347) the essential features of the local government reform guidelines of 1976 were to:

- define and prescribe local government as the third level of governmental authority and administration throughout the country;
- delineate their functions and size in a way which would make it difficult for states to by-pass their local government institutions;
- evolve a national system of financing which would involve contributions made by the federal and state governments as well as by local government institutions themselves;
- restructure political leadership in the councils by creating for each council a competitively elected three or four member full-time cabinet to head the executive branch of the councils. Traditional rulers were separated into a council with ceremonial functions and otherwise given an advisory role to the council.

Smith (1983 : 53) writes that the objectives of the 1976 reforms were to:

- make services and developmental activities responsive to local wishes by devolving and delegating powers to local representative bodies;
- mobilise human and material resources to promote development of local government areas.

In concurring, Idode (1980 : 394) writes that while centralisation was the general tendency in all the nineteen states of Nigeria until 1976, decentralisation was the cardinal tone of the 1976 reform. The reform finally abolished the provincial, divisional or development administration systems under which state field administrative officers ran local administration in many parts of the country.



Asibuo (1991 : 120) adds that the cardinal theme of reform was of power and the need for decentralisation of power whenever possible as a means of diffusing tension.

In addition, among the objectives of the local government reforms of 1976, was to reduce the role of traditional rulers by insulating them from partisan politics, that is, removing them from direct participation in local government administration. However, traditional rulers remain important constraints on local discretion in many local authorities even though they have been formally exorcised from local government (Mead, 1995 : 197).

What distinguished the 1976 local government reforms from all the previous reform exercises in Nigeria was the formal and unequivocal recognition of local government as constituting a distinct level of government with defined boundaries, clearly stated functions, and provisions for ensuring adequate human and financial resources. Clear guidelines were provided on these issues and on other matters connected with the organisation and functioning of local government. The overall objective of the reform was to constitute local government into the third level of government, after the federal and state levels (Akamolekum & Ayeni, 1990 : 271). The emphasis of the local government reform guidelines of 1976 was placed squarely on the following aspects, namely, functions, structure, financial resources, place of traditional rulers, relationships with states and law enforcement (Ola, 1984 : 87).

Thus, the 1976 reforms created a single tier of general-purpose local authorities throughout Nigeria and recognised local government as a separate sphere of government. It can be stated that the 1976 reforms also focused on the decentralisation of power to representative local government.

#### **4.4.2.3.2 Functions**

Two lists of functions were drawn up, one to be devolved onto the local authorities immediately, and the other as local authorities acquired the capacity to discharge them (Gboyega, 1993 : 243).



The document titled **Guidelines for Local Government Reform**, identified two distinct classifications of local government functions. The first consisted of items that were to be taken as the distinct responsibilities of local governments alone, for example, markets and motor parks, refuse and night soil disposal, control of vermin, registration of births, naming of roads and streets, parks and recreation grounds. The second category consisted of items that could be handled jointly by local and state governments, for example, health centres, libraries, primary and adult education, fire services, water supplies, street lighting (Ola, 1984 : 87 - 88). A wide range of statutory local functions were devolved to local government in 1976, such as maintenance of law and order, construction and maintenance of public roads and bridges, formulation and implementation of rural development schemes, agricultural development and provision of health, water and housing (Rondinelli *et al* , 1989 : 75).

Thus, the 1976 reforms devolved specific functions to local government whilst others could be executed jointly with state governments.

#### **4.4.2.3.3 Finance**

The 1976 local government reforms included provision for both general and specific grants aimed at enabling the new authorities to take care of essential services and provide a surplus for the execution of development projects. The Federal Government has also taken a role in the financing of local government following the constituent assembly's recommendation that local government should receive funds from both the federal and state levels (Smith, 1982 : 4).

Gboyega (1993 : 247) writes that the ten percent share of national revenue was distributed to the states for their local authorities on the basis of fifty percent to be shared equally, forty percent proportionate to population and ten percent according to land area. The states were also required to make a general grant of ten percent of their revenue to local authorities.

Local governments have continued to find revenue from other sources apart from grants from the federal and state governments. Other sources of revenue are



property tax (especially in urban areas), community tax, liquor licensing, bicycle fees, miscellaneous fees and loans (Ola, 1984 : 91).

To summarise, the 1976 reforms introduced general and specific grants aimed at assisting local government to carry out the devolved functions and to promote development programmes.

#### **4.4.2.4 Evaluation of the 1976 Decentralised Reforms**

The basic characteristics of the centralisation measures in Nigeria include a combination of representatives and officials in council membership, staff and funds belong to the Federal Government and are allocated to the areas for local disposal and the field administrator re-emerges at the core of local authority either as chairperson or as chief executive (Idode, 1980 : 401).

In agreeing, Smith (1983 : 67) states that central control appears all pervasive in that the executive branch of the state nominates the appointed councillors, determines the terms of office, including pensions for all councillors and controls the procedures for the holding of elections. Major decisions are all subject to central control, including creating subordinate authorities, forming a joint committee or board, raising a loan, investing money and passing by-laws.

Though the local governments had statutory allocations granted by the Federal Government, many of them complained that the money did not reach them. For varying reasons, including greater need and urgency, the allocations from Federal Government were being diverted by some state governments, ostensibly for local purposes which they performed on behalf of local authorities (Ola, 1984 : 95).

Ola (1984 : 97 - 98) continues that the innovations of 1976 in terms of the functions it set out and the staffing of the local governments were far ahead of the practical realities of Nigeria and were not sufficiently cognisant of the national problem of manpower.

The picture which emerges is of an approach to a re-organisation dominated by a centralist perspective in which local councils are seen as agents of both state and



Federal Governments. The goals of local democracy have been set by the Government, and the standards and values by which it is judged are those of the Government (Smith, 1983 : 69).

Osaghae (1989 : 353) adds that state governments still regarded and continued to treat local authorities as subordinate administrative units and, in many cases, the military governors dissolved elected councils at will before the inauguration of the Second Republic in 1979.

Thus, despite the 1976 decentralised reform initiatives central control of local government in Nigeria continues to be all pervasive and the local level is still regarded as an agent of the federal and state governments.

#### **4.4.3 THE SECOND REPUBLIC (1979 – 1983) : PRESIDENTIAL**

With the return of civilians to power in 1979 came the return of partisan politics and politicisation of local governments. Boundaries were challenged and governments were divided to create new ones (Humes, 1991 : 148). During the Second Republic the number of local government units increased dramatically from three hundred and one to over nine hundred. The large increase in the number of local government units was not matched by any steady improvement in their aggregate revenues (Gboyega, 1993 : 249).

In 1979 a federal constitution was adopted which concentrated authority at the federal level, left the states with concurrent but no exclusive powers and recognised local government as a constitutional sphere of government (Humes, 1991 : 147). The Constitution of 1979 guaranteed democratically elected local government councils, granted local authorities specific principal and shared responsibilities and the right to a share of federal or national revenue to be paid to individual states for disbursement to councils (Ayoade, 1995 : 23 and Tordoff, 1994 : 572). Notwithstanding some of the constitutional provisions which seemed to give local governments a measure of autonomy, they were tightly controlled and subordinated by state governors, many of whom had only a tenacious hold on power (Osaghae, 1989 : 355).



However, state government officials resisted steps which would have transferred meaningful authority to the local government level. They continued to control key staffing decisions, retained extensive influence over policy making at the local level, and remained heavily involved in local government budget preparation and financial management (Koehn, 1990 : 27).

In addition, civilian politicians completely abandoned the implementation of local government decentralised reforms and thus, destroyed all hopes of firmly institutionalising a local government system, for the Government's main goal of decentralising powers and resources to local government was not shared by the state governments, who viewed local government as a threat to their power base and security (Asibuo, 1991 : 122).

Asibuo (1991 : 122) continues that the civilian governors appreciated the advantages which could be derived from the dissolution of councils, so upon expiry of their three-year tenure of office, local government councils were dissolved by state governments who failed to arrange fresh elections throughout their four years of operation. Management committees were appointed to manage the affairs of the defunct councils whose members were in most cases party candidates unsuccessful at the 1979 elections.

In concurring, Mead (1995 : 192) adds that, despite the efforts of reformers, stability did not become the norm in local authorities. Once the 1976 decentralised reforms were in place, the civilian administration did not hold elections for local councils. State governments appointed civil servants to conduct local affairs, either as sole administrators or chairpersons of a four member management committee. Consequently, there has been uncertainty surrounding the legitimacy and organisation of local government which adversely affected its capacity to serve as an agent of national development.

Other handicaps were the withholding by some state governments of the federal statutory allocations to which the local authorities were entitled, coupled with the decline in traditional sources of local revenue and the shortage of experienced and well-qualified staff (Tordoff, 1994 : 572).



In summing up the situation during the Second Republic, Gboyega (1993 : 252) writes that local government administration was recklessly violated during the period in that:

- local authorities were excessively fragmented, thereby undermining their capacity to deliver services;
- the financial basis of the system was put under severe strains. Although the statutory grants from the federation account were made as and when due, many states diverted them ostensibly for local purposes which they performed on behalf of local authorities;
- the representative basis of the system was subverted as management committees were appointed to replace the elected councils.

Asibuo (1991 : 124) concludes that the Nigerian experience of local government reform under the Second Republic provides a useful illustration of how governing élites can manipulate and pursue policies completely different from the publicly enunciated goals of local government, even to the extent of circumventing constitutional provisions to suit their own selfish political interests.

#### **4.4.4 MILITARY REGIMES (1983 - 1999)**

In this subsection the structure, functions and finance of local government under the military regimes from 1983 to 1999 will be discussed.

##### **4.4.4.1 Structure**

The coup of December 1983, motivated by the economic pressures and gross evidence of corruption, displaced the civilian government and installed a military regime headed by General Buhari. Following this, the Government terminated the local governments created during the Second Republic, thereby reducing the number back to three hundred and one (Humes, 1991 : 148 - 149).

The next step was to re-examine the status and role of local government in the federation, which necessitated the appointment of a committee headed by A I Dasuki in May 1984. The Dasuki Committee, as it became known, re-emphasised



the need to strengthen local government as the primary unit of government and, in particular, to bolster their financial resources so they could effectively function as a separate level of government. The Federal Military Government accepted these recommendations and proceeded to incorporate them into the transition process (Osaghae, 1989 : 355 – 356 and Gboyega, 1995 : 7-8).

The Federal Government acknowledged that the temporary appointment of sole administrators in 1984/5 was contrary to the aims of government by local people. Accordingly, the Federal Government introduced the local government councils, which were to consist of an administrator/chairperson, who was designated the chief executive and accounting officer, and four other members, one of which should be a woman. These local government councils would be appointed by the state governor, and would be expected to live in the local area (O'Donovan, 1992 : 357 and Gboyega, 1993 : 253).

In August 1985 another coup installed General Babangida as president. The new administration directed that states appoint nominated councils to serve to 1990 and to schedule national elections for December 1990 and state elections for late 1991. Following the December 1990 elections, the councils comprise between ten to over seventy councillors selected from single-member constituencies. The chairperson is popularly selected and designates, with the approval of council, the supervisory councillors who provide policy guidance for education, works, health, community development and agriculture (Humes, 1991 : 149).

O'Donovan (1992 : 359) writes that in early 1990 the number of local governments in Nigeria increased from three hundred and one to four hundred and forty nine. Wright (1993 : 620) adds that in August 1991, as a result of the creation of nine new states, more local government units were created, bringing the total to five hundred and eighty nine. Although their powers are undermined by state governments, local governments remain a primary level of participatory democracy.

**The Local Government (Basic Constitutional and Transitional Provisions) Decree, 1989**, which was implemented in May 1991, established an “executive federal presidential system of government” for local government areas. Local



government areas were structured following the lines of the presidential system in the United States of America, complete with the separation of powers and legislative impeachment and removal of the elected executive. The elected chair of the local government area heads the executive branch, and a separately elected council with its own staff, constitutes the legislative branch (Mead, 1995 : 192-193). All the elected local office bearers were suspended from office after the presidential elections were held in June 1993 and replaced by government appointed administrators.

The aforesaid decentralised structural reforms introduced at the local level of government in 1991 were essentially designed to:

- hasten the development of the democratic culture in Nigeria;
- strengthen the local government system and enhance its status and autonomy by giving it a parity of treatment with the higher levels of government;
- streamline the practices at the local level with what obtains at the higher levels of government;
- provide an effective counterpoise to the executive authority of the chairperson of local government; and
- strengthen the system of checks and balances (Oyelakin, 1995 : 31-32).

In essence, the decentralised structural reforms of the various military regimes basically entailed a substantial increase in the number of local authorities and the implementation of the Executive Federal Presidential System of Government for local governments.

#### **4.4.4.2 Functions**

O'Donovan (1992 : 357) states that the Federal Government agreed with the Dasuki Report of 1985 that the problems of local government were more operational than functional. Thus, state governments were again exhorted not to take over the revenue-raising functions which were the domain of local government.



General Babangida in October 1988 mandated that all ministries of local government be abolished and directed state governments to refrain from undertaking any constitutionally reserved local government functions (Koehn, 1990 : 27).

The new local authorities have replaced native administrations, but the role of local government has been narrowed from sole provider of local services to a limited one since ministries now provide many local services directly, and closely supervise others. The new élite dominates the leadership of the central ministries and hence, the central ministries' perspectives and programmes reflect an élite vision of what should be done and by whom it should be done (Humes, 1991 : 150).

In summary, it can be stated that the state governments directly provide many local services and closely supervise others.

#### **4.4.4.3 Finance**

In January 1988 General Babangida announced that local governments would henceforth receive their federal grant allocations directly rather than *via* the state government institutions which have been diverted these funds in the past (Koehn, 1990 : 27). Any state which defaulted in the transfer of ten percent of its internal revenue to local governments would have an equivalent sum deducted from its share of the federation account and forwarded to local governments (Gboyega, 1993 : 253).

In 1990 the Federal Government announced that local government would receive fifteen percent of the federal account with effect from January 1990 and that the funds would be directly disbursed to local government (O'Donovan, 1992 : 357). The federal statutory grant to local government was increased from fifteen to twenty percent in 1992 (Tordoff, 1994 : 573).

According to O'Donovan (1992 : 359 - 360) local governments derive their revenue from the following sources: twenty percent of the Federal Account, ten percent of state internally generated revenue, and locally generated revenue from



rates, tax, fees from licences, motor parks and cattle markets. In theory, local governments hope to keep thirty percent of their budget allocation for capital expenditure. This, however, can be difficult as the salaries and recurring costs can account for ninety percent of the budget.

In concluding, Mead (1995 : 202) writes that inadequate and unreliable resources constitute a threat to local capacity. Over-reliance on federal and state generated revenues reduces autonomy and initiative among local authorities. Poor methods of revenue collection and mal- and misadministration of revenues collected constitute a fundamental threat to local authorities in Nigeria.

In summary, it can be stated that the era under the various military regimes since 1983 was turbulent for local government in that the number of units varied drastically, sole administrators were appointed to be followed by "councils" appointed by the state governors, and finally the Executive Federal Presidential System of Government was implemented.

Local governments lost their statutory functions to the states and funds allocated by the Federal Government were not reaching the local governments *via* the states.

In essence, local government underwent major structural reforms, barely had any revenue accruing functions and were financially in a perilous situation.

## **4.5 EVALUATION OF DECENTRALISED REFORMS**

In this section of the chapter an evaluation of the decentralised reforms in respect of the various criteria for comparison identified for the study pertaining to Nigeria will be made.

### **4.5.1 POLITICAL SYSTEM**

The British administration of Nigeria was unremarkable in colonial terms. Nigeria was one territory among many in the British Empire, and British political institutions and political behaviours were transplanted from Westminster to



Nigeria, that is, a unitary system of government (Mahler, 1995 : 351). However, on gaining independence in October 1960, Nigeria implemented a federal system of government.

Since independence Nigeria has struggled to find a stable framework of political institutions through which to govern. The country has experimented with parliamentary (1960 to 1966), presidential (1979 to 1983), and military (1966 to 1979 and 1984 to 1999) structures of government, which have all operated within a federal system encompassing initially three regions and later thirty states, but no system or set of institutions has brought the degree of stability required. Many commentators, both in Nigeria and abroad, argue that it is not the political institutions themselves that have been at fault, but the politicians that have been at the helm (Wright, 1993 : 595-596). The view of these commentators is supported, particularly in the light of the blatant constitutional violations which occurred during the Second Republic with regard to local government.

Nigeria has faced a number of challenges to its development, most especially a crisis of national legitimacy caused by ethnic and tribal identities frustrating the development of a sense of national identity. In this respect, Nigeria is typical of many developing countries, and it is consistent with the challenges facing such countries with regard to political development and modernisation (Mahler, 1995 : 364).

Wright (1993 : 595) states that an important issue to consider is whether the regular intrusion into politics has had a positive or negative impact upon the political process, or whether in fact military rule should be seen as an integral part of the process itself. Indeed, a favourite comment is that the Nigerian system contains only two parties, the civilians and the military, and that both must be considered integral to the political process.

Hague & Harrop (1987 : 61–62) describe a military government as a form of authoritarian regime in which power either originates with the military or where the military is in fact the main prop sustaining a notionally civilian government. In developing countries, such as Nigeria, the military may be the only effective basis of power and may be no more and no less coercive than civilian regimes.



Military regimes have tended towards corrective objectives, attempting to reform the deep-seated conditions which provoked military involvement in the first place, namely, chronic inflation, economic mismanagement, public waste and political corruption. The military's remedies for these maladies are highly predictable; stern social discipline, the suspension of normal political activity and the curtailment if not outright suppression of human rights (Hague & Harrop, 1987 : 63).

According to Smith (1983 : 53) the main objective of the 1976 local government decentralised reforms envisaged by the then military regime was to make services and developmental activities responsive to local wishes by devolving and/or delegating powers to local representative bodies.

The Nigerian Constitution of 1979 guaranteed democratically elected local government councils and granted local authorities specific powers and functions to perform as the third level of government (Koehn, 1990 : 27). The Constitution of 1989 provided further safeguards to local authorities in that they can only be dissolved with the approval of the Federal Government and their boundaries can only be altered by amendments to the constitution.

It, therefore, can be concluded that Nigeria is a former British colony which implemented various political systems since independence in 1960, all of which operated within a federal system of government, dominated by periods of military rule. Nigeria is also a developing country in whose Constitution the rights and status of local government as a separate level of government are protected.

Despite the authoritarian and centralistic philosophy of military regimes, it can be stated that attempts have been made by, in particular, the military regime of 1976, to devolve powers to the constituted representative local institutions. However, the intergovernmental relations were predominantly based on the centralisation of authority and power.



#### 4.5.2 LOCAL POLITICAL STRUCTURE

Under the Constitutions of 1960 and 1963, local governments were on the residual list and therefore the exclusive preserve of the regional governments and there was an increasing centralisation in the management of affairs to the regions from the local governments. With the creation of more regions, known as states in 1967 this centralising trend was taken further. The powers, staff and finances were increasingly reduced by their state governments, such that it was possible by the early 1970's to conclude that there were only different forms of local administration all over the country rather than local governments (Olowu, 1982 : 358).

It, therefore, can be stated that although a federation, local governments in Nigeria over this period were strictly controlled by district or divisional administration, which in turn entails the deconcentration of power.

Flowing from the foregoing, Nigeria has a federal system with three constitutionally entrenched levels of government, namely, federal, state and local. However, the federal system resembles the centralised model at the macro and micro levels of government. Osaghae (1989 : 347-348) writes that the federal bargain and process is between the two higher levels, each of which has enumerated matters on which it can take final decisions. Local government does not feature in the power-sharing matrix, presumably because it is not party to the federal bargain. Local governments are the creations of state governments and are, therefore, subordinate to them. In addition to the dictates of local autonomy and grassroots democracy, local governments in Nigeria have been created mainly as administrative units for implementing federal and state policies and programmes at grassroots, that is, agencies of the higher levels of government.

The structures of local governments varied considerably in Nigeria since independence in 1960. During the First Republic, each region had its own system of local government, comprising multiple tiers. In the 1970's local government structures began to change as the western states instituted an American Council-manager system of administration and the northern states strove to weaken the powers of the traditional rulers (Wright, 1993 : 620).



The 1976 decentralised reforms also introduced a most radical departure from the existing structure of local government. It introduced all over the length and breadth of the country a single-tier of general-purpose local institutions, each serving a population of between one hundred and fifty and eight hundred thousand (Ola, 1984 : 88).

Local government administration was, however, recklessly violated during the period of the Second Republic in that the representative basis of the system was subverted, as management committees were appointed to replace the elected councils (Gboyega, 1993 : 25).

The number of local government units were increased sharply during the Second Republic, but the military regime after 1984 decided to decrease the units back to the original number. The situation was, however, dramatically altered in May 1989, when a substantial number of new local government units were created with further units again being created in August 1991 (Wright, 1993 : 620).

In conclusion, it can be stated that there are three levels of government in Nigeria, namely, federal, state and local, with the local level having undergone various structural reforms with regard to tiers and number of units, primarily due to the prevailing political instability in the country. It can also be stated that local government forms a weak sphere of government as it has negligible influence on the higher levels of government, is over-reliant on these levels for financial resources and is weak in terms of democratic functions and accountability for service delivery.

It can further be stated that for most of the period since independence local governments have been non-representative general-purpose institutions.

#### **4.5.3 LOCAL FUNCTIONS**

The revenue situation of local authorities in Nigeria was aggravated at the end of the 1960's, when they were no longer responsible for some of the functions for which they used to receive grants. Furthermore, the decline in funding affected the



services the local authorities could provide and capital projects were repeatedly delayed and maintenance and operation deteriorated (Humes, 1991 : 145).

The situation was even further aggravated when the first military government under General Ironsi in 1966 abolished local democratic institutions along with all representative bodies, and replaced them with "sole administrators" who were administrative officers employed by the states. This move towards centralisation was enforced by the removal of more functions and services from local government (Smith, 1983 : 51). In other words, the military regime took away functions and in so doing deconcentrated power in appointed officials.

As a consequence, Gboyega (1993 : 252) writes that local administration was carelessly violated during the period of the Second Republic in that local authorities were excessively fragmented, thereby undermining their capacity to deliver services.

Functions such as veterinary and agriculture, management of hospitals, water supply and primary and post-primary education were taken over by the states on the grounds that local governments lacked the financial and executive capacity to handle them. Other functions such as customary and area courts, police and prisons, were taken over by the federal and state governments on the grounds of streamlining national security and reducing partisan influence in the judicial process (Osaghae, 1989 : 350). In addition services such as water supply, town/country planning, fire protection, forest management, state housing, agriculture and health programmes and primary education have been transferred to special purpose authorities appointed by state governments (Olowu, 1982 : 353).

To conclude, it can be stated that the federal and state governments or their agencies have taken over and provide many statutory local functions and closely supervise others, due to the lack of administrative capacity, financial and skilled human resources. Furthermore, the political instability, the centralistic philosophy of military dictatorship and the lack of adequate local sources of revenue, are factors which also have contributed to the loss of functions by local authorities in Nigeria.



It may also be stated that centralisation is rife in Nigeria due to *inter alia* the appointment of sole administrators and the removal of functions from local government.

#### 4.5.4 LOCAL FINANCE

Smith (1983 : 61-64) states that due to the experiments in local government re-organisation carried out between 1968 and 1976, the financial position continued to deteriorate. Government grants for capital projects were diverted to recurrent expenditure due to the weak financial resources of local authorities.

There is an overwhelming dependency in Nigeria on financial resources from a higher level of government, a factor which is characteristic of intergovernmental relations in the country as a whole. This is in part explained by the fact that throughout its history local government has been organised by central authorities which, despite the rhetoric of decentralisation, have been more concerned to strengthen control than local autonomy (Smith, 1982 : 13).

Furthermore, long term development planning was hampered by the erratic trickle of grants from state governments. The lack of administrative capacity at the local level encouraged corruption and other abuses, and this enhanced dependence upon the state government for the drafting of by-laws, budget formulation and implementation. The state's representatives came to play a large role in the financial affairs of local governments, both as the Government's watchdog at the local level and a guide for local initiative and action. The former relative independence of the local authorities was further subverted by the patron-client relationship subsisting between local and state politicians (Gboyega, 1993 : 237).

As a result of the increase in the size of the grants from the federal and state governments, the traditional revenue sources of local authorities, such as, rates, tax, fees from licences, motor parks and cattle markets, declined in their importance. This is a dangerous development for the financial health of local authorities, not so much because of their dependence on external grants, but because the economy of Nigeria is monocultural, dependent almost entirely upon



crude oil. Any severe decline in crude oil sales is bound to have serious consequences for the finances of local authorities (Gboyega, 1993 : 248).

In concluding, Mead (1995 : 195) writes that the capacity of local authorities in Nigeria is undermined by their dependence on external sources of revenue, their financial and budgeting practices, and corruption. As much as ninety percent of their revenue comes from the federal and state governments, the result of which has *inter alia* resulted in less effort to collect local sources of revenue.

In the light of the foregoing, it can be concluded that local governments in Nigeria are under-resourced and heavily dependent on grants from the federal and state governments, which dependence is conducive to the centralisation of power and authority.

It can also be concluded that local governments in Nigeria are agencies of state governments and that all pervasive control by regional federal agencies and the states is being exercised on local institutions.

## 4.6 SUMMARY

Numerous local government reforms took place in Nigeria between independence in 1960 and 1976 when the government issued the **Local Government Great Reform Decree**. These reforms included the removal of powers and functions from local governments, increased centralisation in the management of local affairs, the replacement of representative local governments with "sole administrators" in 1966 and attempts to introduce the American Council-manager system and the French Prefectoral system in several parts of the country.

The prime objective of the 1976 reform was to decentralise powers, either by devolution or delegation, and to this end the regional and divisional systems under which district officers controlled and managed local administration were abolished, yet the state governments still regarded and continued to treat local authorities as agents or subordinate administrative units.



The local government decentralised reforms of 1976 also returned the powers and functions to local governments which were previously taken away and entrenched the representative system as a national norm, which the Constitution of 1979 and subsequently the Constitution of 1989 guaranteed. The said reforms also made provision for both general and specific grants to enable local authorities to provide essential services and execute development projects.

During the Second Republic, that is, from 1979 to 1983 the number of local authorities increased from three hundred and one to over nine hundred, thereby undermining their capacity to deliver services, that is, inadequate geographic bases to finance the delivery of statutory functions. During this period the representative local government councils were dissolved and management committees were appointed to manage the affairs of the defunct councils.

Following the coup of 1983 the number of local authorities were reduced back to three hundred and one and a committee, known as the Dasuki Committee was appointed in 1984 to re-examine the status and role of local government. The said Committee re-emphasised the need to strengthen local authorities and to bolster their financial resources so that they could function as a separate level of government, which recommendations were accepted by the Federal Military Government.

After another coup in 1985, the new regime ordered the states to appoint nominated councils to serve until 1990 and to schedule local elections for December 1990. During this period the Federal Government introduced the following reforms:

- local authorities received their grants direct from the government and no longer *via* the states. The grants were also increased from ten to fifteen percent of the federation account; and
- the Executive Federal Presidential System was applied to local government whereby the council as legislature was separated from the executive, which was implemented in terms of the provisions of the **Local Government (Basic Constitutional and Transitional Provisions) Decree, 1989**.



It can be concluded that since gaining independence in 1960, local government in Nigeria has suffered from the following serious problems:

- overwhelming dependency on financial resources from the Federal Government;
- administrative inefficiency, technical inadequacy, staff shortages, poor managerial supervision and weak direction from the states;
- the dominance of the federal and state governments and the all pervasive central control;
- the fragmented and small geographic base of local government;
- corruption and inefficiency;
- poor service delivery; and
- political instability.

Due to the foregoing problems which have plagued Nigeria since independence, the system of local government has undergone drastic and often turbulent changes shifting back and forth from a decentralised representative form of administration with varying degrees of power and autonomy to one of total domination, control and management by the federal military governments.

In the chapter to follow some of the decentralised reforms implemented with regard to local government in a selected developed country, namely, Britain, will be dealt with.



## **CHAPTER 5**

### **LOCAL GOVERNMENT IN BRITAIN**

#### **5.1 INTRODUCTION**

Britain is the principal island of the United Kingdom, and it comprises England, Scotland and Wales. It is a unitary state with two levels of government, namely, central and local, and where democratic elections are held every four years.

During the early part of this century local government was accepted as a direct provider of a wide variety of services to its communities. However, from the 1930's local government started to lose some of its functions to the central government and its agencies and became increasingly dependent on government grants to carry out its functions, and as a consequence lost some of its autonomy.

The system of local government in Britain has also been through some trying periods, particularly since the election of Margaret Thatcher as prime minister in May 1979. The decentralisation policies implemented were particularly severe with regard to the structure, functions and finance of local authorities, aspects of which may prove to be useful when developing a model of local government appropriate for South Africa.

In the sections of this chapter to follow the historical development of local government and the political system in Britain will be described, and in more detail, the decentralised reforms to the structure, functions and finance of local government, which has been divided into three periods, namely, the reforms of 1974/75, from 1976 to 1986 and 1987 to 1999. An evaluation will thereupon be made of these decentralised reforms pertaining to the criteria identified for comparison in respect of Britain for later analysis within the context of local government in South Africa.







### 5.2.1 ENGLAND AND WALES

Lagroye & Wright (1979 : 14) state that the reforms brought about by the **Local Government Act, 1929** were necessary to achieve the following objectives:

- to meet part of the cost of the new and expanding services of local government;
- to enable central government to supervise services expected to reach a certain minimum standard everywhere; and
- to correct inequalities in the burden of local taxes between different individuals and areas.

Norton (1994 : 352-353) writes that the period from the 1890's to the 1930's has been called the golden age of local government in Britain. Local authorities were recognised to be the direct providers of a growing number of services, including hospitals, public education, youth employment, labour bureau, low-income housing, relief of the poor, town and country planning, and other functions inherited from *ad hoc* agencies.

The recognition of local government as a general-purpose provider of services began to fade from the 1930's with the loss of functions, such as, assistance to the unemployed, hospitals, relief of the poor, control of river pollution, electricity and gas supply, water supply, conservation and sewage disposal. The root causes for the loss of functions were local government's political weakness, the low priority given to local autonomy, and the belief that most of the existing local authorities did not provide an efficient means of implementing the Government's reform policies and programmes (Norton, 1994 : 353).

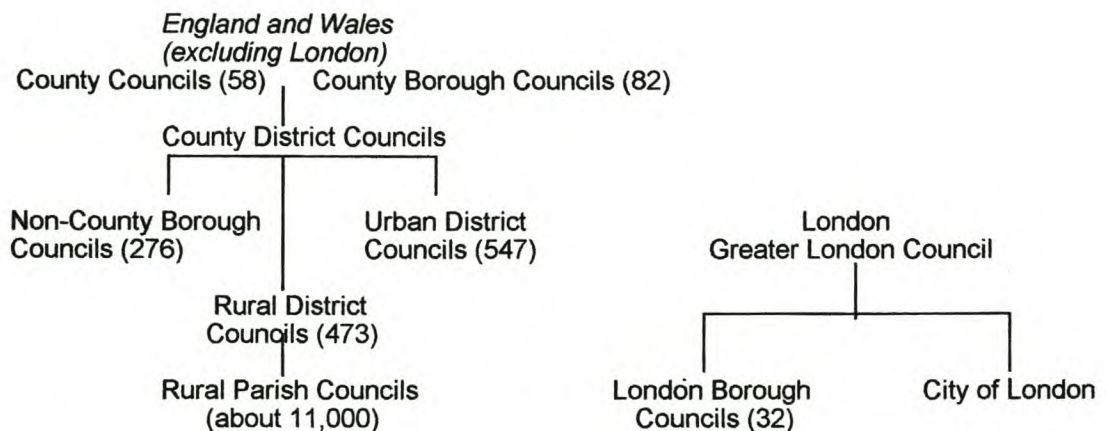
A steady increase of control by central government of local government activities occurred in the twentieth century. This development stemmed from a fear that local authorities might become too ambitious in response to popular demands. Later, grants were coupled with a checking mechanism to ensure that money given to local authorities was spent economically and effectively. Thus, the Block Grant introduced in 1929 was accompanied by a provision which gave the Minister of Health power to reduce the grant if he/she considered that the expenditure of the council had not been effective (Seeley, 1978 : 12).



Lagroye & Wright (1979 : 14) state that between 1929 and 1972 there were innumerable Acts of Parliament which, together with government committees, boundary commissioners and royal commissions, sought to ensure that the structure of local government could continue to cope with the problems with which it was faced, as well as providing the various services required and demanded of it. Examples of important legislation include the **Education Act**, 1944, the **Town and Country Planning Act**, 1947, as well as many Housing Acts. The basis of local government finance was also altered from time to time by such Acts as the **Local Government Act**, 1958, all of which generally increased the central government's contribution towards the cost of local services.

The structure of local government which existed in London from 1963 to 1986 and from 1899 to 1974 in the remainder of England and Wales is illustrated in Figure 5.1 (Prophet, 1971 : 166).

**Figure 5.1 : Structure of local government in England and Wales**



Thus, over the said periods, London comprised a two-tier structure of local government and the remainder of England and Wales of a four-tier local structure.

### 5.2.2 SCOTLAND

The management of local affairs in Scotland was first experienced in the twelfth century in the burghs that had been established as trading communities. During the fifteenth and sixteenth centuries numerous merchant guilds and councils of burgesses took upon themselves the ordering of local affairs, and it was this tradition of self-rule that provided the framework for Scottish local government (Humes & Martin, 1969 : 617).



Local government in Scotland was founded upon a system of counties and burghs, which was highly fragmented. The counties were large areas originally marked out for law enforcement purposes but used increasingly thereafter for administration. A burgh was not just a town or village but a special creation, originating from charters granted by the sovereign, the nobility or the church. From the start burghs were highly restricted geographically, extending little, if at all, beyond the houses they contained (Martlew, 1988 : 4).

The pattern of local government was similar to that in England and Wales, with chartered burghs, parishes and counties set up for the more effective implementation of power from Edinburgh in the sixteenth century. After 1833 any community of two thousand inhabitants or more could apply for a charter (Norton, 1994 : 354).

In 1889 the first systematic attempt was made to rationalise local government in the sense of endeavouring to ensure that each local government service was administered by an elected authority over an area appropriate to the service. The legislators used the areas that were at hand, the burghs, the counties and the parishes. In subsequent refining of the structure, notably in 1929, the parishes dropped out, though in many cases they became districts, but the counties remained. The treatment of burghs varied according to size in respect of either losing or retaining their important functions (Martlew, 1988 : 4).

Martlew (1988 : 4) continues that by the late 1960's the basic units of local government in Scotland had remained unchanged since 1929 and yet during this time the functions of local government had developed immensely. Burgh and county councils had lost many of the functions they had assumed in the nineteenth century, such as gas and electricity supply while gaining enhanced powers for housing, town planning and social services. Due to the range of size within each class of authority anomalies were abundant. Small counties existed which had a wide range of functions while large burghs existed with fewer functions.

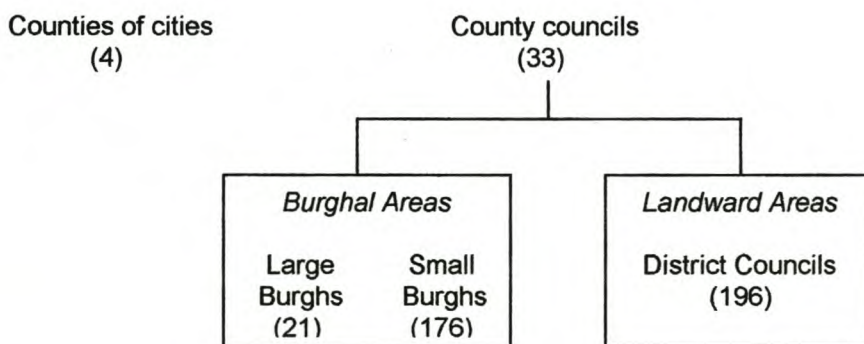
Norton (1980 : 275) is of the opinion that the development of local government in Scotland paralleled, but did not follow exactly the pattern for England and Wales.



For most purposes the major urban areas, namely, Aberdeen, Dundee, Edinburgh and Glasgow comprised a single-tier, and were treated as separate autonomous local government units termed counties of cities. Elsewhere a two-tier structure applied comprising thirty three county councils, one hundred and ninety seven town councils of burghs, and one hundred and ninety six district councils for the landward or non-burghal areas of all counties but two. The burghs were of two kinds, large and small, the descriptions being statutory and reflecting status and powers as well as size and population.

Figure 5.2 illustrates the structure of local government in Scotland prior to the 1975 reforms (Prophet, 1971 : 171).

**Figure 5.2 : Structure of local government in Scotland**



The financial basis of local government resembled that in England and Wales, with differences reflecting the structure, functions and traditions in Scotland and the existence of a separate legal system. The majority of the running expenses of local authorities was financed from taxes, both central and local, the proportion being higher than in England and Wales. In terms of expenditure, the significant services were education and housing (Norton, 1980 : 276).

### 5.3 POLITICAL SYSTEM

Developed countries, such as Britain, are basically capitalist in orientation and are a product of an early transition to societies based on market relations. The creation of a liberal political order against feudal privilege and absolute monarchy was a key



in the establishment of a market society, to be followed by later democratisation (Hague & Harrop, 1987 : 48).

As the phrase 'Westminster model' implies, Britain was the homeland of majoritarian democracy. Between 1945 and 1974, the system worked in Britain because it was then a relatively homogeneous society divided mainly by class. At elite level, majoritarian democracy was marked by adversarial politics, at mass level by muted social divisions. Opposition supporters were prepared to allow the other party to govern following a fair electoral contest. Since 1974 majoritarian democracy in Britain has lost some effectiveness and legitimacy. The class cleavage, which underpinned the two party system, has declined; new divisions, especially those of nationalism, have emerged; the two major parties (Conservative and Labour) have been challenged by new parties; and the hold on power of the two major parties has come to depend on the arbitrary operation of the electoral system (Hague & Harrop, 1987 : 51).

For the purposes of this dissertation only the following cornerstones of the British political system will be described and explained briefly, namely, the constitution, the executive and local government.

### **5.3.1 THE CONSTITUTION**

There are essentially three sources from which the British Constitution emanates, namely, statutory law, common law and judicial decisions, and the customs of the Constitution. Although there is no single document that can be called the "British Constitution", scholars agree that fundamentally this is not significant, whether or not there is a single document, Britain does have a Constitution (Mahler, 1995 : 182).

According to Mahler (1995 : 184) two fundamental principles underlie the British Constitution. The first principle involves the rule of law whereby citizens are entitled to protection of law, and both individuals and the Government of the state are to be limited in what they can do by the law of the state. The second principle is that Parliament is sovereign, which point can be elaborated on as follows:



- there is no law of an earlier Parliament which the present Parliament cannot change if it so wishes;
- there is no clear distinction between when "constitutional" Acts of Parliament and Acts of Parliament that are not "constitutional";
- no person or body can nullify an Act of Parliament on the grounds that the Act is opposed to the Constitution. Thus, anything the British Parliament does, is by definition constitutional.

Gildenhuys *et al* (1991 : 27) write that although the British Constitution is classified as "unwritten", a number of fundamental Acts do exist which in time have become part of the British Constitution, for example, the **Habeas Corpus Act**, 1662, the **Bill of Rights**, 1698, the various Franchise Acts, 1832 to 1928, and the **Parliament Act**, 1911. On the other hand, the cabinet system did not flow from particular Acts, but from customs and conventions.

Jones (1991 : 167) concludes that, as there is no written constitution, local government has no guaranteed constitutional status in Britain. Under the prevailing doctrine of Parliamentary Sovereignty statute is supreme. Acts of Parliament create and can destroy local government, they grant it power, amend them and take them away, determine its structure and boundaries, and its role in society. This untrammelled authority of Parliament gives great power to central government, since normally it is in control of Parliament because of its party majority in the House of Commons.

### 5.3.2 THE EXECUTIVE

The British Executive comprises the monarch and the cabinet and prime minister.

#### 5.3.2.1 The Monarch

The eighteenth and nineteenth centuries the king relied more and more on his cabinet for advice. At that stage the role of the cabinet was only that of providing advice, the king did as he pleased. However, as ideas of democratic and republican government took hold over the next two centuries, the power



relationship changed so that the king was now obliged to accept the advice of his cabinet. Cabinet members were now exclusively drawn from the chamber of parliament that was chosen by the public, namely, the House of Commons. The cabinet is now in reality governing in the name of the king without consulting him (Mahler, 1995 : 185).

One of the most striking characteristics of British parliamentary government is the duality of its executive leadership with the monarch being the *de jure* head of state and the prime minister the *de facto* head of government. Appointments are made, Acts of Parliament are proclaimed, and all government is carried on in the name of the monarch. It is the prime minister and his or her cabinet, however, who make all the selections for appointments, who author or sponsor legislative proposals, and who make the administrative decisions that keep government running (Mahler, 1995 : 186).

#### **5.3.2.2 Cabinet and Prime Minister**

The prime minister is the first minister of the cabinet, but the power exercised by the incumbent to that position varies widely depending upon the political environment of the time. Some prime ministers, due to their own wish, have had a tremendous amount of power, whilst others have simply fulfilled the role of chairperson of the cabinet. The size of the cabinet is a function of both the preferences of the prime minister and the political situation of the time. The prime minister has a free hand in the selection of his or her cabinet in that the monarch will appoint to the cabinet whom ever the prime minister requests (Mahler, 1995 : 188).

#### **5.3.2.3 Civil Service**

The civil service is an integral part of British Government and politics. When cabinet ministers seek to have policy implemented, it is through the civil service that they operate. The civil service is, ostensibly non-political, and its function is to administer the policies of the government of the day. The high-ranking civil servants play an important role in government. The permanent secretaries, the



highest non-political appointments in the civil service, provide the continuity and expertise that link one government to the next (Mahler, 1995 : 192).

### **5.3.3 LOCAL GOVERNMENT**

In Britain the most frequently cited values attached to local government are pluralism, through which it contributes to the national political system, participation, through which it contributes to local democracy, and responsiveness, through which it contributes to the provision of local needs by the efficient delivery of local services (Wolman, 1995 : 139).

Although ultimate sovereignty resides at Westminster, the central government has delegated many of its functions to local government. In areas of Britain where Thatcher's Conservative Party was unpopular, local governments sought to continue many of the programs that Thatcher was discontinuing or cutting back at the national level. This resulted, ultimately, in Thatcher's regime pushing a bill through Parliament that did away with some local governments, for example, the Greater London Council in 1986 (Mahler, 1995 : 193).

Britain has two historically distinct levels of government and administration, namely, central and local, both originating in appointments and grants of liberties by the crown. Local authorities have no independent rights, and since 1974 in England and Wales, and 1975 in Scotland are creations of statutes or, in terms of real power in the 1980's and early 1990's, of a government with majority support in the House of Commons (Norton, 1994 : 355-356).

Norton (1994 : 356) continues that there is no written constitutional underpropping of doctrines about local government's status and rights, nor any statement defining its role within the local community. Moreover, the cumulative effect of the former Conservative Government's values has been significantly to devalue the importance of local government in Britain. The Government has seen local authorities as little more than agencies, thus there is no assumption that local authorities have a right to act in the interests of their inhabitants unless they can quote legal justification or limit their expenditure to a low statutory level.



The Thatcher Government denationalised a number of government-owned industries, cut subsidies, reduced services, and fought with local governments which, although controlled by the then opposition Labour Party, sought to move into policy areas vacated by the central government. Ultimately, Thatcher's style of politics, specifically her insistence on new taxes, for example, the poll tax, alienated even most of her supporters in the Conservative Party. Thatcher's successor, John Major has steered a more moderate conservative line, and the Conservative Party was re-elected under his leadership in April 1992. Major repealed some of the unpopular legislation and taxes created by the Thatcher Government (Mahler, 1995 : 192). The Blair Labour Government, *inter alia* extended the unitary or single-tier structure of local government in Britain which now covers some sixty percent of the populace.

In concluding, it can be stated that Britain is a developed democratic country with a unitary system of government. Britain has no written constitution and, as such, local government has no guaranteed constitutional status. Local authorities can, therefore, be construed as agencies of the government in power.

## **5.4 LOCAL STRUCTURAL AND FUNCTIONAL REFORMS OF 1974 AND 1975**

In this section some of the decentralisation reforms will be addressed which took place as a result of the recommendations put forward by the Royal Commission on Local Government in England, under the chairmanship of Lord John Primatt Redcliffe-Maud in 1969 and the Royal Commission on Local Government in Scotland, under the chairmanship of Lord John Wheatley in 1969. The structures were implemented in 1974 and 1975 respectively.

### **5.4.1 REDCLIFFE-MAUD COMMISSION**

In this subsection the Commission's brief, defects identified, recommendations, aspects of the **Local Government Act, 1972** and functions will be addressed, whereupon a brief evaluation will be made of the decentralisation policies and strategies implemented.



#### **5.4.1.1 Commission's brief**

A Royal Commission under Lord Redcliffe-Maud was appointed in 1966 to consider the structure of local government in England, outside Greater London, in relation to its existing functions, and to make recommendations for authorities and boundaries, and their division, having regard to the size and character of the areas in which these can be most effectively exercised and the need to sustain a viable system of democracy (Norton, 1980 : 263).

#### **5.4.1.2 Defects**

The Redcliffe-Maud Commission identified four basic defects in the structure of local government existing at the time, namely, the areas did not fit the pattern of life and work in England and Wales; the fragmentation between the numerous county borough councils and county councils made proper planning of development and transportation impossible; the divisions of responsibilities within county areas between county, district and county borough councils; and many local authorities were too small in size, measured in terms of population, area or financial resources to be efficient and effective (West, 1994 : 17).

As a result of the four basic defects, there were serious defects in the relationship of local government both to the public and the central government. The public found the local structure confusing, and the weaknesses of the structure led to unnecessary control and interference by central government (Rhodes, 1981 : 98).

#### **5.4.1.3 Recommendations**

Knowles (1971 : 5) writes that the intention was that the greater part of England and Wales should be organised in unitary areas with populations of not less than two hundred and fifty thousand and not much more than one million, in which a single authority would exercise all local government functions. However, certain areas, where planning, transportation and development require authorities too large for other services, were to be organised as metropolitan areas in which functions would be divided between two tiers of authority.



The Royal Commission on Local Government in England (CMND.4040: H.M.S.O., 1969 : 1-2) *inter alia* recommended that:

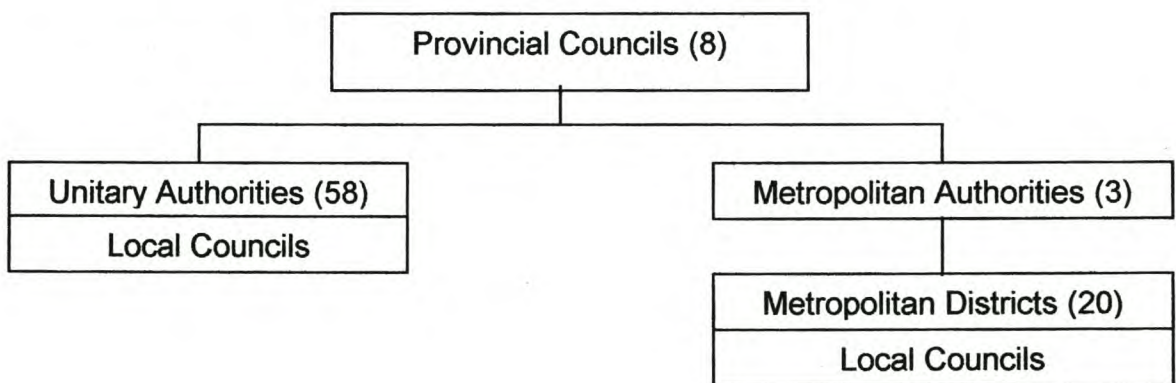
- England and Wales, outside of Greater London, be divided into sixty one new local government areas, each covering town and country. In fifty eight of them a single authority should be responsible for all services. In the special circumstances of three metropolitan areas around Birmingham, Liverpool and Manchester, responsibility for services should be divided in each case between a metropolitan authority whose key functions would be planning, transportation and major development, and a number of district authorities whose key functions would be education, the personal social services, health and housing.
- These sixty one new local government areas should be grouped, together with Greater London, in eight provinces, each with its own provincial council, that is, another level of government. Provincial councils would be elected by the authorities for the unitary metropolitan areas, that is, including in the south east, the Greater London authorities, but would also include co-opted members. The key function of these councils would be to settle the provincial strategy and planning framework within which the main authorities will operate. They would replace the existing regional economic planning councils and collaborate with central government in the economic and social development of each province.
- Throughout the sixty one areas, local councils initially representing the displaced boroughs, urban districts and parishes should be elected to represent and communicate the wishes of cities, towns and villages in all matters of special concern to the inhabitants. Their sole duty would be to represent local opinion, but they would have the right to be consulted on matters of special interest to local inhabitants. Rhodes (1981 : 99) adds that these local councils would have a largely advisory role. The establishment of local councils in the metropolitan areas was optional.

Hill (1974 : 189), in elaborating on the former two recommendations of the said Commission, writes that in the fifty eight areas unitary authorities would be responsible for all services, that is, a single-tier local structure. In three areas, namely, Birmingham, Liverpool and Manchester, there would be a two-tier structure



comprising a metropolitan authority and twenty metropolitan districts. The sixty one areas, together with Greater London, would be grouped together into eight provinces, that is, the second level of government. The provincial councils, with strategic powers, would be indirectly elected from among their constituent local authorities, plus some co-opted members. The provincial councils would form a separate level of government, that is, regional government. Figure 5.3 depicts the Royal Commission's proposals (Rhodes, 1981 : 99).

**Figure 5.3 : Structure proposed by the Commission for England and Wales**



Public reaction to the single or unitary authority concept was unfavourable, that is, where a single authority is responsible for all the functions. Of the four principal local authority associations only one, the Association of Municipal Corporations, supported the recommendations, but the others preferred a two-tier local structure throughout to prevent the risk of rural interest being disregarded by dominant urban authorities (Seeley, 1978 : 27). Many critics argued that there was no optimum size of local authorities, and in addition, the new authorities would be too remote from the residents (Rhodes, 1981 : 100).

In concluding Norton (1980 : 266) adds that the concept of the unitary general-purpose authority overriding urban and rural distinctions was central to the Commission's recommendations, which was also the target of some formidable critics and was interpreted as the expansion of the county borough form of councils at the cost of the annihilation of the county district councils.

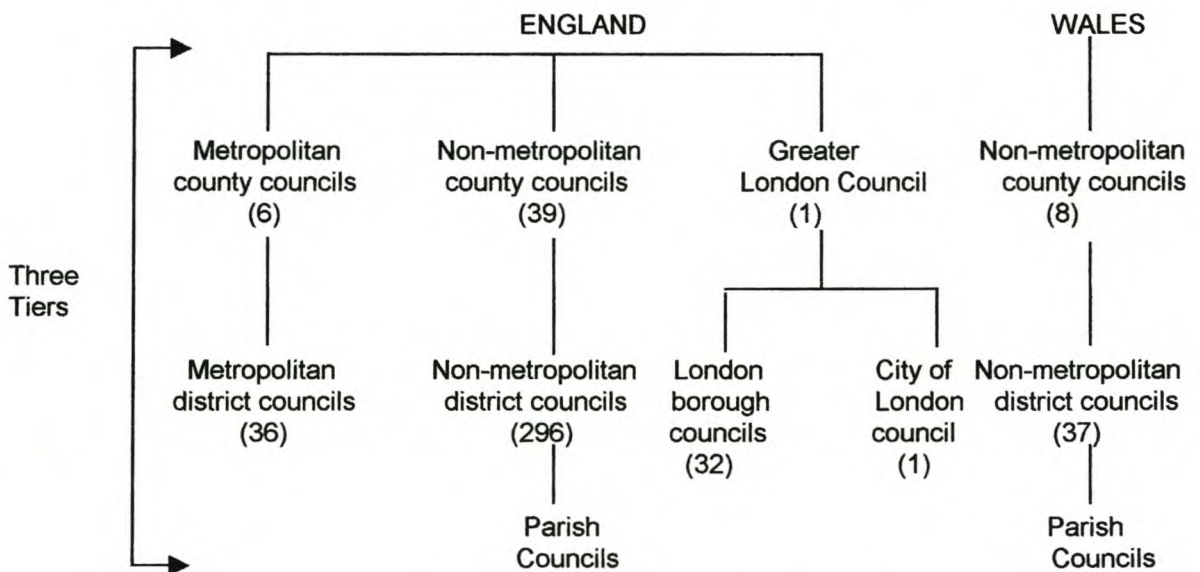


#### 5.4.1.4 Local Government Act of 1972

In June 1970 the Conservatives gained power and they opposed the proposed single-tier local structure in non-metropolitan areas and intended to retain a two-tier structure throughout England and Wales. The result was the publication of the White Paper titled "*Local Government in England : Government Proposals for re-organisation*" in 1971 containing alternative proposals which formed the basis of the **Local Government Act, 1972** (Seeley, 1978 : 28).

The structure of local government after 1972 is presented in diagrammatic form in Figure 5.4 (Seeley, 1978 : 35).

**Figure 5.4 : Approved local government structure - England and Wales**



The **Local Government Act, 1972** established a two-tier system of representative general-purpose local authorities consisting of metropolitan counties and districts as well as a three-tier system of non-metropolitan counties, districts and parishes with a different distribution of powers and functions in England and Wales, which system was implemented on 1 April 1974 (Elcock, 1982 : 32).

At the third-tier under the non-metropolitan counties and districts, rural parishes remain and new parishes may be created and existing ones abolished. Hence, the



pattern of parishes can change and, as the previous distinction between urban and rural districts has been removed, there is no legal restriction placed on the district councils in which parishes can be created (Seeley, 1978 : 32).

According to Owojaiye & Smith (1983 : 405) the **Local Government Act, 1972** recognised the validity of the arguments for large authorities for the effective and efficient operation of some services and for smaller authorities for grassroots democracy, but argued that regional or provincial areas would be too large for the operation of local government services. The proposal of the said Commission in this regard was, therefore, not accepted by the Central Government.

Thus, the decentralised reforms to the structure of local government in England and Wales in terms of the provisions of the **Local Government Act, 1972**, brought about a two-tier structure of metropolitan counties and districts with a three-tier structure of non-metropolitan counties, districts and rural parishes. In other words, the situation pertaining to parishes remained unchanged.

It can be stated that local authorities in England and Wales are representative general-purpose institutions. Local government forms a relatively weak level of government in relation to the central government in terms of control over its financial resources and influence at the national level of government.

#### 5.4.1.5 Functions

The distribution of functions in England and Wales is set out in Table 5.1 (Norton, 1980 : 270).

The metropolitan counties were given relatively few functions and are chiefly responsible for strategic planning and passenger transport planning. The non-metropolitan counties by contrast were given major services to administer, notably education and the personal social services. Another feature is the division of certain functions between counties and districts, notably, strategic planning and control, highways, traffic, passenger transport, refuse collection and disposal, environmental health, libraries, fire, police and consumer protection (Elcock, 1982 : 35).



**Table 5.1 : Distribution of Functions in England and Wales**

<b>Metropolitan Areas</b>		<b>Non-metropolitan Areas</b>	
<i>Counties (6)</i>	<i>Districts (36)</i>	<i>Counties (47)</i>	<i>Districts (333)</i>
(Pop. 1,320,000 to 2,790,000)	(Pop. 177,390 to 1,096,000)	(Pop. 109,284 to 1,426,410)	(Pop. 24,532 to 425,203)
Strategic planning and control	Local plans and most development control	Strategic planning and control	Local plans and most development control
Highways Traffic Passenger transport	Minor road maintenance	Highways Traffic Passenger transport co-ordination	Minor road maintenance Passenger transport undertakings
Land drainage Small-holdings Refuse disposal	Land drainage Refuse collection Local sewers	Land drainage Small-holdings Refuse disposal	Land drainage Refuse collection Local sewers
Limited housing powers	Housing	Limited housing powers	Housing
Town development development	Town development	Town development	Town
	Environmental health		Environmental health
Parks, recreation, museums, arts	Parks, recreation, museums, arts	Parks, recreation, museums, arts	Parks, recreation, museums, arts
	Education Libraries Personal Social services	Education Libraries Personal Social services	Libraries in some cases in Wales
Fire Police Consumer protection		Fire Police Consumer protection	Consumer protection in some cases in Wales

The division of these functions appeared neat and sensible in theory but in practice it has been the source of disputes between county and district councils, each jealous of their functions and prestige. The two/three tier system itself makes co-ordination of policy and administration difficult, and in those fields where counties and districts have concurrent powers, the problems are particularly acute (Elcock, 1982 : 35). These administration and co-ordination problems could be ascribed to poor management.



Rhodes (1981 : 102) writes that on 1 April 1974 the National Health Service removed the personal health services from local government and vested them in nominated regional hospital and area health authorities. The medical officer of health in the local government service ceased to be a statutory officer. Included in this transfer of responsibilities were ambulance services, family planning, health centres, health visiting, home nursing and midwifery, and vaccination and immunisation. Seeley (1978 : 44) adds that also in 1974 ten regional water authorities were created with responsibility for water conservation and supply, pollution and sewage treatment, which resulted in the transfer of water supply and sewage treatment functions from local authorities to new bodies.

Parish councils have some powers of their own, but they also provide a valuable communication link between country people and the district and county councils. They provide amenities, such as village halls, playing fields, maintain footpaths and public bathing places. Parishes also act as pressure groups in commenting on and resisting proposals that effect their electors made by local authorities and Government agencies (Elcock, 1982 : 36).

Thus, it can be stated that a feature of the distribution of functions in England and Wales in terms of the **Local Government Act, 1972**, was the major services which were made the responsibility of metropolitan districts and the division of functions between counties and districts. However, a number of these functions were subsequently taken over two years later by central government agencies, notably personal health services and water supply.

#### 5.4.1.6 Evaluation of Decentralised Reforms

Rhodes (1981 : 111) is of the opinion that the **Local Government Act, 1972** has not stilled the voices with regard to:

- Local government has not been reformed; it has merely been reorganised.
- A number of the defects of the old structure have been intensified, and the capacity of local government to carry out its functions effectively has been weakened.



- Local authorities have lost functions to other units.
- The changes did not consider the basic question of the distribution of functions between central and local government.
- The re-organisation exemplified the functionalist characteristics of British government.

Therefore, the restructuring of local government in England and Wales which was implemented in 1974 resulted in the separation of the previous county district councils and reduced the local structure from four to three tiers in respect of non-metropolitan areas with the rural parish councils remaining in tact as well as the Greater London Council. In metropolitan areas a two-tier system applied.

The metropolitan counties were allocated relatively minor functions and were solely responsible for strategic planning, passenger transport, highways, traffic, police, fire and consumer protection, smallholdings and refuse disposal whilst the non-metropolitan counties were given some major functions, such as, education and personal social services as well as passenger transport, traffic, fire, police and consumer protection.

Finally, it can be stated that local government in England and Wales forms a relatively weak level of government comprising representative general-purpose local authorities.

#### **5.4.2 WHEATLEY COMMISSION**

In this subsection the Commission's brief, defects identified, recommendations, aspects of the **Local Government Act, 1973** and functions will be dealt with whereupon a brief assessment will be made of the decentralised reforms implemented.

##### **5.4.2.1 Commission's brief**

A Royal Commission under Lord Wheatley was appointed on 31 May 1966 to consider the structure of local government in Scotland in relation to its existing



functions and to make recommendations for authorities and boundaries, and for functions and their division, having regard to the size and character of areas in which these can be most effectively exercised and the need to sustain a viable system of local democracy.

Page (1980 : 278) writes that the Commission began by asserting their belief in the need for local government to administer local services and retain the principles of democracy and to this end offered four fundamental decentralisation objectives of reform, namely:

- power, to give local government a more important role in society;
- effectiveness in the exercise of functions in the interests of the people;
- local democracy, leaving decision-making with an elected council directly accountable to the electorate; and
- local involvement, people should be brought into the process of reaching decisions as much as possible.

#### **5.4.2.2 Defects**

The Wheatley Commission (CMND.4150 : H.M.S.O., 1969 : 36) identified the following weaknesses to the then system of local government in Scotland, namely:

- many local government areas have been shown to be inappropriate;
- authorities tend to be too small for the functions that they have to discharge;
- the relationship between the different kinds of authority is over-complicated and makes for conflict rather than harmony; and
- the relationship between local and central government does not promote a proper sense of local responsibility.

#### **5.4.2.3 Recommendations**

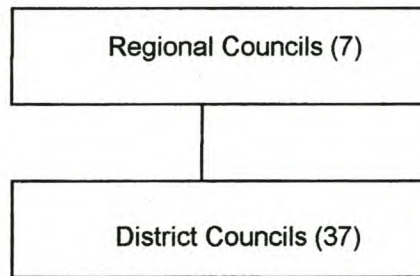
The Wheatley Commission recommended that Scotland should have a two-tier system of local government. The top tier to be styled 'regions' would consist of seven authorities, and the lower tier to be styled 'district' would consist of thirty



seven authorities. Voluntary community councils, outside the structure of local government, could be established (Kellas, 1975 : 146).

The Royal Commission's proposal pertaining to the structure of local government in Scotland is depicted in Figure 5.5.

**Figure 5.5 : Structure proposed by the Commission for Scotland**



#### **5.4.2.4 Local Government Act of 1973**

The new structures were established in terms of the **Local Government (Scotland) Act, 1973** and implemented from 1 April 1975, that is, one year after England and Wales (Kellas, 1975 : 143).

The local structure implemented for Scotland departed only slightly from the Wheatley Commission's recommendations in that the Government introduced nine instead of seven regions and fifty three as opposed to thirty seven districts. The Government accepted the views of two of the notes of dissent to the Commission's report by detaching the Orkney and Shetland Islands from the proposed Highland region and setting them up as two separate representative general-purpose island authorities. The local political structure in mainland Scotland, therefore, entails a two-tier structure comprising nine regional authorities at the higher tier and fifty three district authorities on the lower tier. The three island councils of Orkney, Shetland and Western Isles are single-tier or unitary authorities (Alexander, 1982 : 125).



Thus, the **Local Government (Scotland) Act, 1973** introduced a two-tier system of local government in mainland Scotland comprising regions on the upper tier, and districts on the lower tier and unitary authorities in the three islands.

In concluding, it can be stated that local authorities in Scotland are representative general-purpose institutions.

#### 5.4.2.5 Functions

According to Page (1980 : 278) the Commission entered into a detailed analysis of functions which was eventually reduced and categorised into large and small area functions. The large area services were strategic planning and associated functions and the protective, personal, social and housing services. The services recommended for small areas were local planning, environmental and amenity functions, housing improvements and libraries.

The redistribution of major local government functions in Scotland in 1975 is depicted on Table 5.2 (Martlew, 1988 : 10).

**Table 5.2 : Major local government functions in Scotland**

<i>Regions and Islands</i>	<i>Districts and Islands</i>
Education	Housing
Social work	Local planning and building control
Strategic planning	Libraries (d)
Roads	Environmental health
Water and related services	Refuse collection and disposal
Consumer protection	
Police (a)	
Fire (b)	
Valuation (c)	

*Concurrent functions:*

*Regions (9) and Districts (53)*

Industrial development  
Amenities and tourism

- (a) Combined police forces in Lothian and Borders, Highland, Orkney, Shetland and Western Isles (Northern Constabulary)
- (b) There is a joint fire brigade for Highland and the 3 Island Authorities
- (c) There is a joint valuation authority for Highland and the 3 Island authorities
- (d) Regional functions in Highland, Dumfries and Galloway and Borders



Martlew (1988 : 9) states that the Commission's recommendation to give the main responsibility for housing to the regions was the most seriously and comprehensively criticised of its recommendations. The recommendation was reversed in the face of sustained pressure mainly from the previous four counties of cities which in the absence of housing responsibilities were to be reduced from powerful general-purpose authorities to minor organisations providing various environmental services. The result was that all housing responsibilities were given to the districts and so both tiers of local government were given large scale responsibilities with close daily involvement in the lives of their citizens.

In conclusion, it can be stated that the functions allocated to the regions and district authorities in terms of the **Local Government (Scotland) Act, 1973** represents a fair distribution in terms of the capacities of large and small units to effectively and efficiently carry out the types of functions.

#### **5.4.2.6 Evaluation of Decentralised Reforms**

Martlew (1988 : 7) defends the previous local government structure in Scotland by pointing out that it was more democratic than a system of amalgamated jurisdictions and that it was by no means certain that services could be provided more efficiently or effectively by larger local government units.

The creation of the two-tier system of local government in Scotland led to public misunderstanding of the distribution of functions and so blurred accountability. It caused problems of co-ordination between the tiers and created a misunderstanding between some authorities. Furthermore, councillors and members of the public felt that local government has become much more bureaucratic and remote because of its scale and the consequent size of constituencies (Martlew, 1988 : 12).

The two most striking characteristics of these authorities are their size and the allocation of certain functions between the two tiers. The enlarged size of the new authorities produces a new remoteness of the councillor from his or her constituency. The division of functions between region and district compels the



authorities to make liaison arrangements for handling the shared and concurrent functions, the most sensitive field being in the links between regional social work and associated services and the district housing function, primarily due to the fact that many continue to regret the allocation of these functions to the respective authorities (Page, 1980 : 282-283).

Thus, following the restructuring of local government in Scotland which was implemented in 1975, the number of local authorities has drastically been reduced to the extent that local government has become more remote to the populace.

However, the two-tier system of local government has remained in tact with the higher tier comprising regional and island councils and the lower tier district and island councils. The higher tier has been allocated large area functions, such as, strategic planning, water supply, education and policing and the lower tier small area functions, such as, libraries, local planning and refuse collection and disposal, that is, functions or services which need to be provided closer to the people.

Finally, it can be stated that local government in Scotland comprises representative general-purpose authorities. It forms a relatively weak level of government in relation to the central government in terms of control over its financial resources and influence at the national level of government.

## **5.5 LOCAL GOVERNMENT REFORMS FROM 1979 TO 1986**

In this section the decentralisation policies and strategies brought about by the Thatcher Government to local government between 1979 to 1986 will be discussed, which include changes to the political structure with the abolition of the Greater London Council in 1986, functions and finance of local authorities. A brief evaluation of the reforms over the period will thereafter be made.

### **5.5.1 LOCAL POLITICAL STRUCTURE**

The Thatcher Government in 1979 had no immediate plans to again change metropolitan local government areas and structures, but soon came to regret their



creation in the 1970's. The artificiality of the metropolitan areas was never cited as a reason to have them abolished. Official criticisms rested largely on the cost of their administration and the belief that their removal would save money. In reality their abolition was largely due to the fact that they were Labour Party controlled and some were highly critical of the Government (Chandler, 1991 : 27). In other words, they were abolished for political and not sound technical and scientific reasons.

The passing of the legislation to abolish the Greater London Council and the six metropolitan county councils, that is, the higher tier local authorities, proved to be the most troublesome issue of the 1983 to 1987 Conservative Government. Despite widespread opposition from the populace, the abolition of the metropolitan county councils and the Greater London Council became law with the implementation of the **Local Government Act**, 1985, and the authorities ceased to exist on 1 April 1986 (Chandler, 1991 : 27-28).

Leach (1994 : 348) writes that the abolition of the metropolitan county councils has had repercussions for the following reasons:

- it provided a clear precedent for change and the 1974 settlement was no longer sacrosanct;
- many of the arguments used for the abolition of a tier of local government in the conurbations could be applied in non-metropolitan areas; and
- the abolition effectively destroyed the whole rationale behind the **Local Government Act**, 1972, concerning the distinction made between the local government needs in the conurbations and in non-metropolitan areas.

Chandler (1991 : 28) states that although the six metropolitan counties were abolished as general-purpose authorities, they still exist in an attenuated form since the **Local Government Act**, 1985 established *ad hoc* authorities in each area to deal with police services, fire services, civil defence and public transport. Despite the administrative survival of the metropolitan counties for such limited purposes, the creation and abolition of these counties underlines central government interference to popular conceptions of community.



Norris (1997 : 126) adds that the then British Government's decision to abolish the Greater London Council and the metropolitan counties has increased the amount of fragmentation in urban areas with regard to the provision of services in that numerous *ad hoc* or special-purpose local authorities were established to carry out their functions.

Thus, from the foregoing it can be concluded that the decision to abolish the Greater London Council and the six metropolitan county councils was taken for political reasons and not based on sound scientific principles or the wishes of the local populace. It led to the establishment of numerous appointed special-purpose authorities to provide some of the services previously provided by the metropolitan counties which in turn increased duplication and fragmentation.

## **5.5.2 LOCAL FUNCTIONS**

The budgets of the non-metropolitan county councils are dominated by education, which in the 1980's took up over fifty eight percent of the total spending. Social services and police expenditures followed, each at around twelve percent, roads absorbed between five to six percent and fire services three percent. The pattern is similar for Scottish regions and islands (Norton, 1994 : 373).

In the ensuing subsections the Government's decentralisation policies in respect of housing, transport, education and compulsory competitive tendering will be dealt with.

### **5.5.2.1 Housing**

Since 1979 local authorities have been pressured by the Conservative Government to sell off unused or under-used land in their ownership. In addition, former school sites or children's homes have in some instances been turned over to the private sector. The **Housing Act**, 1980 gave tenants of three or more years standing the right to buy homes at discounted prices. These privatisation incentives were combined with enforced rent increases, that is, a loss of control in government subsidies pushed up the rent levels (Stoker, 1991 : 208-209).



John (1994 : 414), in concurring, adds that central government restricted and attenuated the functions of local government. There is convincing evidence from the reduction of the size of local authority owned housing from the policy of house sales introduced in 1980 and speeded up during the 1980's. The numbers of houses rented from local authorities fell from thirty one percent of households in 1979 to twenty three percent in 1989. Parkinson (1987 : 167) adds that the central government has increased its control over decisions about levels of investment in and the ownership, pricing and maintenance of public housing. Local authorities have lost control of much of their best housing stock and are limited by the Government even in using their own capital receipts to improve their remaining housing stock.

Stoker (1991 : 212), however, writes that council house sales have been one of the most successful of the Thatcher Government's privatisation strategies. The 'right-to-buy' policy has gained a hegemonic quality, with all the main opposition parties having to acknowledge the popularity of the Government's privatisation policies.

Thus, it can be stated that the Thatcher Government's privatisation strategy was aimed at encouraging home-ownership and to reduce the role of local authorities in the provision of housing.

#### **5.5.2.2 Transport**

The **Transport Act**, 1985 abolished the bus licencing system controlled by local authorities and allowed private operators to provide passenger transport. Local authorities have been restricted in the degree to which they may subsidise transport services and no longer have a direct providing role (John, 1991 : 61). Parkinson (1987 : 166) adds that in transport, the institutional and financial framework within which local authorities could take a comprehensive view of their transport needs has been dismantled.

The introduction of the **Transport Act**, 1985 resulted in fewer and less bus services at higher prices, extremely competitive taxi services in many localities, and a decline in rural transport services (Goldsmith, 1992 : 404).



Thus, the Thatcher Government decided to privatise the subsidised public passenger transport function, which resulted in a more cost effective operation.

#### 5.5.2.3 Education

The **Education Act**, 1986 delegated further powers to parent governors, forbade 'political indoctrination' in schools and created a duty to consider political issues in a balanced way, and in so doing, diminishing the role of local authorities (John, 1991 : 61).

#### 5.5.2.4 Compulsory Competitive Tendering

The Central Government enhanced privatisation through the introduction of compulsory competitive tendering for certain local services which, however, remain as local authority responsibilities even though councils lose direct control over their employees (John, 1994 : 415). The **Local Government Planning and Land Act**, 1980 makes competitive tendering compulsory for housing maintenance and highway repairs. Local authority service-producing departments have, therefore, been obliged to bid competitively to provide the service, but have been restricted to competing only for the service in their locality, unlike their private sector counterparts who can compete where they like. Failure to win the contract means that local government manual workers are re-employed by the private contractor (Goldsmith, 1992 : 404).

Thus, it can be concluded that between 1979 and 1986 a number of local government functions have been privatised, particularly with regard to housing, education and transport and by way of the compulsory competitive tendering process implemented by the central government.

The effect of the foregoing was that it relieved the councils of numerous burdens, particularly financial, for example, housing stock, which in turn promoted home-ownership, and subsidised public transport system.



### **5.5.3 LOCAL FINANCE**

This subsection will deal briefly with the main sources of local revenue whereupon the financial policies and strategies imposed on local authorities by the Conservative Government between 1979 and 1986 will be addressed.

#### **5.5.3.1 Sources of Local Revenue**

There are three main sources of local revenue in Britain, namely, grants from central government, local taxes and fees and charges.

##### **5.5.3.1.1 Grants**

The largest slice of local authority income comes from central government grants of which there are two kinds, namely, block and specific grants. Block or general grants can, in principle, be applied to any legitimate purpose, whilst the specific grants are earmarked for defined purposes and must be spent on those purposes, which in turn limits the freedom of choice or autonomy of local authorities (Jones, 1995 : 22).

##### **5.5.3.1.2 Local Taxes**

Local authorities raise taxes from two sources, namely, the local resident population, *via* the council tax, and local businesses, *via* the business rate. The council tax is applied on households and is based on the value of properties whilst the business rate is based on a valuation of the business premises and a standard rate set by the Department of Environment (Jones, 1995 : 22-23).

##### **5.5.3.1.3 Fees and Charges**

There are over one thousand different local authority services in Britain for which fees or charges are levied. The largest are in the fields of housing, education and social services (Jones, 1995 : 23).



### 5.5.3.2 Financial Policies and Strategies

The finance of local government and concern by central government about local government expenditure have been the main factors leading to central concern with, and then in the 1980's, control over local government. The control over the level of central grant started with the introduction of cash-based limits in 1976. The momentum increased after the election of a Conservative Government in 1979 which acquired new types of powers over local authorities, such as to alter the amount of grant going to groups of authorities and reduce central grant as a penalty for overspending (John, 1991 : 59-60).

According to Stoker (1991 : 163-165) the Conservative Government's strategies on local spending came in three phases:

- Firstly, the Government introduced a new system of allocating central government financial support under the **Local Government, Planning and Land Act**, 1980 which replaced the system for supporting local authority current expenditure by a new block grant. The new block grant was distributed according to centrally-determined grant-related expenditure assessments. This was soon followed by an automatic penalty-zone for local authorities which spent more than ten percent above the assessed need figure, which extra expenditure would have to be funded out of rates rather than from central government funds.
- Secondly, was the introduction of a system of targets and penalties, as an additional element grafted onto the block grant scheme, which was introduced in 1981. If an authority chose to spend above target its block grant would be reduced, which penalties were known as "hold-back".
- Thirdly, was the introduction of the **Local Government Finance Act**, 1982 which legalised retrospectively the system of targets and penalties introduced in 1981/82, dealt with the issue of supplementary rates and precepts by abolishing the right of local authorities to undertake those activities and, it established the Audit Commission to oversee the auditing of local authority finances and encouraged 'value for money' from local spending.



The **Rates Act**, 1984 brought in a more stringent and direct method of cutting expenditure in the form of rate-capping. The Government removed what had been one of the keystones of local autonomy from the centre, the right to raise income independently of central government. The Secretary of State for the Environment gained powers to order local authorities that, in his/her opinion, raised excessive rates, not to exceed a rate level that he/she prescribed (Chandler, 1991 : 62). In analysing developments over the period 1979 to 1986, Travers (1989 : 13) adds that the block grant was introduced to give the Government more direct power to influence individual authorities' expenditure. The power to raise a supplementary rate was removed in 1982, while the **Rates Act**, 1984 allowed the Government to limit individual authorities' rates for the first time ever.

Duncan & Goodwin (1988 : 58), however, are of the view that with rate-capping, the Government's rationale was based on the need to stop irresponsible councils spending too much, and hence having a negative impact on both the national economy and local inhabitants. But local government spending and certainly its borrowing was not out of control, and any increase in rates could be attributed to reduced central grant and increased central penalties. The rates are in any case not part of public borrowing, and estimates were that selective rate-capping would only reduce aggregate taxation by an insignificant amount.

Travers (1989 : 13-14) writes that the continuing attempts to restrain local authority expenditure activity were coupled with an increasing use of specific grants within a falling total of grant. Table 5.3 shows the changes in the level of rate support grant and specific grants as a proportion of aggregate grant between 1979/80 and 1987/88.

**Table 5.3 : Rate support grant percentage and specific grants**

	1979-80	1980-1	1981-2	1982-3	1983-4	1984-5	1985-6	1986-7	1987-8
*RSG %	59.6	59.0	55.8	52.7	50.8	50.9	47.7	45.8	46.3
Specific grants as % of exchequer grant	16.3	16.3	17.4	19.3	20.6	23.1	22.5	23.7	24.8

\* RSG = Rate Support Grants



Since 1979 the proportion of specific grants has increased and the proportion of the block grant has decreased, which clearly leads to a reduction in the autonomy of local government and, indeed, the consequent lack of flexibility poses problems for local councillors and officials. Grants made available to local authorities by the central government in the 1993/94 financial year amounted to 56,8 percent and 43,2 percent respectively for block or general and specific grants (Jones, 1995 : 22).

According to Goldsmith (1992 : 401) local government's share of the gross domestic product in Britain declined over the period 1978 to 1985, central grants fell from forty eight percent of local revenues to forty three percent whilst local taxes rose from twenty three percent to twenty nine percent, which figures suggest considerable change.

In 1985/86 the Government abandoned the use of targets and penalties but made more severe use of its powers to adjust grants according to the relationship between a local government's expenditure and the Government's assessment of its expenditure needs (Humes, 1991 : 117).

In summary it can be stated that over the period in question the central government introduced various stringent measures by way of legislation to curb the spending of local authorities and in so doing restricted the financial autonomy which it enjoyed prior to the Thatcher Government coming into power in 1979.

It can also be stated that local government in Britain is dependent on general and specific grants from the central government, of which the latter has been increased to curtail local freedom of choice.

#### **5.5.4 EVALUATION OF REFORMS FROM 1979 TO 1986**

The most important of all facets of the central-local relationship is finance. The central government has a number of ways of exercising a considerable degree of control, through regulation of the central grants system, influence over local authority pricing policies, the loan sanction process and attempts to restrict the



money that can be raised from the hitherto sacrosanct source of local taxation (Kingdom, 1993 : 21). In concurring, Parkinson (1987 : 166) adds that nowhere are central government's gains at the expense of local authorities more obvious than in the case of finance. In both current and capital spending, direct central control has been increased and local autonomy has declined.

Duncan & Goodwin (1988 : 50) continue that the Conservative Government elected in 1979 set out to centralise financial control over local government and to establish increased control over particular policies, such as housing and public transport, where local government traditionally played an important role. Legislation was passed between 1980 and 1986 curtailing local autonomy in the fields of housing, transport, education, health, water, planning, local economic policy and civil defence, mainly by way of privatisation.

In concurring, John (1994 : 412-413) draws the conclusion that the growing centralisation has heralded the decline of local democracy. Centralisation has been advanced through five processes, namely, the centralisation of local financial decisions, the privatisation of functions, the imposition of legal controls and the exclusion of local government from local and also central decision-making, that is, bypassing the various established associations and forums.

Stoker (1991 : 177) is of the opinion that, despite their determination and legislative action, the Thatcher Government over the period 1979 to 1987 found themselves constrained by their lack of direct control over local government. Many local authorities through their manipulation of financial information, creative accounting and by raising their rates were able to fight a sustained rearguard action against central government. John (1991 : 61) adds that the change in central-local relations over the period 1979 to 1986 involved central government acquiring and using broad discretionary powers over local government, particularly over its financial decisions, and increasing specific grants to local authorities, thus restricting the discretionary powers of local government.

Travers (1989 : 20) concludes that in the short term, the autonomy and freedom of local government in Britain looks set to decline. No real thought has yet been given



to the kinds of institutional arrangements which will exist in future. Equally, it is not possible to be certain about the impact on the democratic system of the removal of local government power. It is inevitable that individuals will, in future, be more than ever exposed directly to central government and its agencies. The population will have to rely, more than ever before, on Parliament for redress of grievances and to control governmental activity.

## **5.6 LOCAL GOVERNMENT REFORMS FROM 1987 TO 1999**

In this section the further decentralised policies and reforms to local government brought about by the Thatcher and Major Conservative Governments and the Blair Labour Government, pertaining to the local political structure, functions and finance of local government in Britain, will be discussed. A brief evaluation of the decentralised reforms over the said period will thereupon be made.

### **5.6.1 LOCAL POLITICAL STRUCTURE**

A survey conducted in 1991 revealed that forty four percent of Scots favour the continuance of the two-tier system, whilst only thirty seven percent favour a change to a single-tier system of local government. Moreover, seventy percent thought the task of reforming local government should fall to an independent commission, whilst only fourteen percent thought it was the responsibility of central government, that is, primarily for political reasons. After a decade of political attacks on the competence of local government, these results show that a sceptical Scots electorate remains unconvinced. Only 34,5 percent of the submission supported the government's proposal for single-tier local authorities (Midwinter, 1992 : 53 & McCrone *et al*, 1993 : 11).

Leach (1994 : 357-359), however, is of the opinion that the logical option would be to press ahead with a predominantly or wholly unitary system for England. It would be compatible with plans for Scotland and Wales and make reforms there easier to justify politically. The alternative is some kind of compromise which will involve a significant increase in the number of unitary authorities in England, but with two-



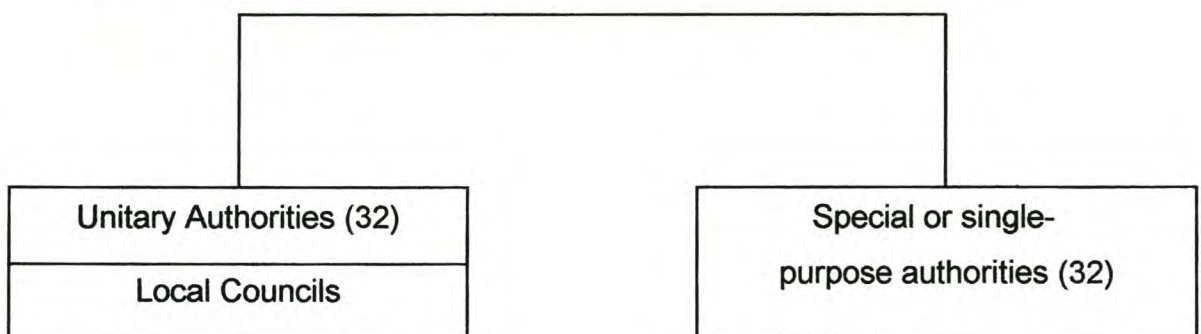
tier structures retained for less densely populated areas. There are fears that a badly botched reorganisation would require a further overhaul.

The 1990 review of local government resulted in the central government committing itself to a new system of single-tier authorities in Scotland. In April 1996 the two-tier Scottish local political structure of nine regional and fifty three district councils was replaced by a system of thirty two single-tier or unitary authorities. The system was presented as a means of eliminating waste, improving co-ordination and enhancing accountability and was implemented in terms of the **Local Government (Scotland) Act, 1994** (Midwinter & McGarvey, 1997 : 150). The three unitary local authorities in the islands, namely, Shetland, Orkney and the Western Isles are not affected by the local government reforms (Fairley, 1995 : 176).

The revised political structure of local government in Scotland reduced the number of general-purpose local authorities from sixty five to thirty two, whilst the number of special-purpose authorities increased from seven to thirty two comprising twenty three joint boards, four joint committees and five quangos, that is, non-departmental public bodies (Midwinter & McGarvey, 1997 : 76).

The structure of local government after 1996 in Scotland is depicted in Figure 5.6.

**Figure 5.6 : Revised Local Government Structure in Scotland**



Midwinter & McGarvey (1997 : 74) continue that the central government's objectives were to improve efficiency and enhance democracy. These objectives represent the twin poles between democracy and efficiency which face all would-be reformers of local government. In promoting the two explicit objectives, the central government's proposals were based on three key assumptions, namely:



- that community loyalties remained with the pre-1974 local authority;
- that the use of joint arrangements would be consistent with promoting accountability; and
- that the development of the enabling role of authorities meant that large authorities providing economies of scale were no longer necessary.

Following the national elections in May 1999, a parliament was established in Scotland with *inter alia* the responsibility for local government. Under the previous system, the supervision of local government was undertaken by the Secretary of State whilst under the Scottish parliament, decisions affecting both the structure of local government as well as its supervision are undertaken by the democratically accountable legislature, that is, Parliament.

Thus, the foregoing decentralised reform can be described as the devolution of authority and power within a unitary state, that is, Britain and can be compared with the strong unitary model as detailed in subsection 2.5.3 or Chapter Two.

Reverting to England, the **Local Government Bill**, 1991 established an independent Local Government Commission to review the shires (rural districts) in England with the view to determining whether a unitary structure would better reflect the identities and interests of local communities, and secure effective and convenient local government. When the Commission finally reported under the chairmanship of Sir David Cooksey in December 1995, it recommended the establishment of a further eight unitary authorities, which the Blair Labour Government also accepted (Filkin & Moor, 1997 : 138).

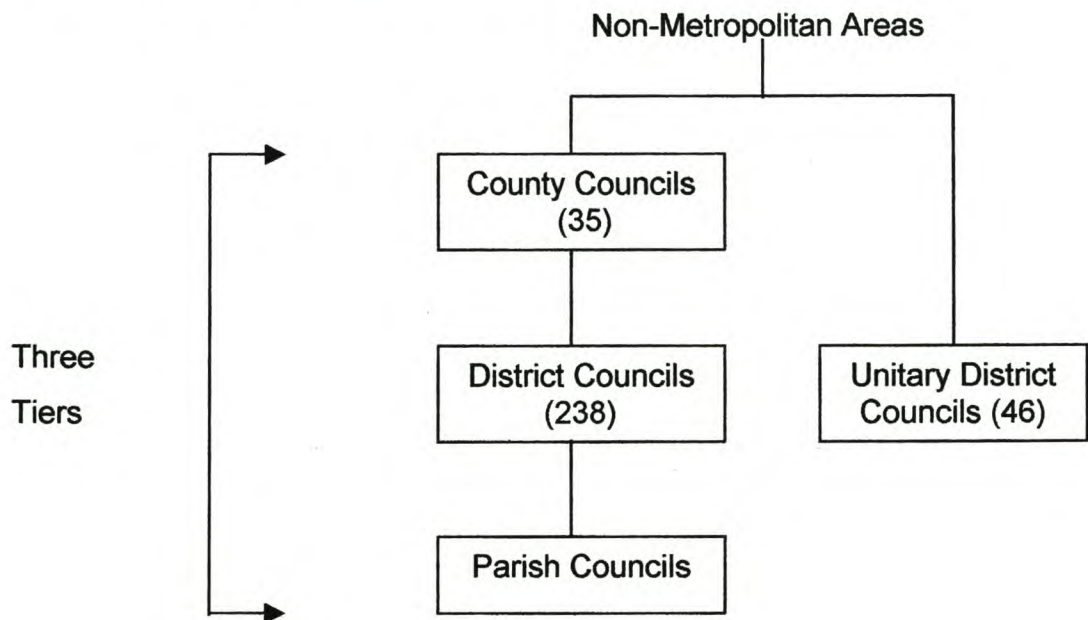
Filkin & Moor (1997 : 139) continue that the review finally resulted in the establishment of forty six unitary authorities in rural England representing approximately eight million people. The changes to the local government structure in Scotland resulted in structures covering a further eight million people. As a result, close to sixty percent of the population of Britain will be in single-tier or unitary local government areas by 1998. In concurring, Leach & Stoker (1997 :13) add that the overall change in England will entail forty six new unitary authorities, two hundred and thirty eight districts (out of an original two hundred and ninety six) remaining as



part of a two-tier structure, that is, excluding parishes; fourteen counties remaining unchanged; twenty one counties who lost one or more district councils, and four being dissolved.

The revised local government structure in non-metropolitan areas in England is depicted in Figure 5.7.

**Figure 5.7 : Revised Local Government Structure in England**



Norris (1997 : 114 & 127) concludes that the local government review of the shires in England added unitary authorities which resulted in modest changes to the structure of local government. However, the creation of these additional unitary authorities will increase duplication and fragmentation, albeit in a small way.

Thus, it can be concluded that the 1996 restructuring of local government in Scotland abolished the two-tier structure comprising regional and district councils and further reduced the number of general-purpose authorities to ostensibly improve co-ordination and eliminate fragmentation. Local government in Scotland now comprises a single-tier of thirty-two representative general-purpose local authorities. However, the number of special-purpose authorities increased appreciably, namely, from seven to thirty two, primarily to execute fire, police, valuation, environment and library services.



Furthermore, local government in England was also restructured with the establishment in non-metropolitan areas of forty six single-tier district councils, two hundred and thirty eight district councils which remain part of the two-tier structure (excluding parishes), fourteen counties which remained unchanged with twenty one losing one or more districts and four being dissolved. Thus, the local political structure in the non-metropolitan areas of England comprises one and three-tiers, which situation primarily arose as a result of the districts in certain counties being granted unitary status.

## **5.6.2 LOCAL FUNCTIONS**

The programme of the third Thatcher Government elected in 1987 was explicit about its ambition to reorganise and restructure Britain's local government system. No area of local government responsibility escaped scrutiny, with education and housing being the most obvious targets and the extension of compulsory competitive tendering (Cochrane, 1991 : 282).

In this subsection the further decentralised reforms to education, housing and compulsory competitive tendering will be dealt with as well as the enabling role of local authorities.

### **5.6.2.1 Education**

A national curriculum with national assessment of the performance of pupils, together with greater emphasis on parental choice of schools are the keynotes of Britain's **Education Reform Act**, which became law on 29 July 1988 (Ranson & Thomas, 1989 : 55).

The **Education Reform Act**, 1988 further decentralised education by making school governors and the head teacher responsible for budgets and education policy, requiring them to report directly to parents. Given that education has traditionally been the highest spending element for the authorities responsible for education, that is, counties and metropolitan districts, this decentralisation has meant a significant shift away from local government towards parents as users of



the education service (Goldsmith, 1992 : 404). This degree or form of decentralisation of authority and power can be described as devolution.

In addition, polytechnics have been removed from local government control and schools of a medium size and upwards can opt out of local authority control and receive funds directly from central government. Many of the powers of the local education authority in relation to the individual school are transferred to the governors and the head teacher. The last vestige of the former London County Council, the Inner London Education Authority, is being abolished (Brooke, 1989 : 18).

Thus, it can be stated that the Government has bypassed local government in respect of education by devolving certain powers to school governors whilst centralising the funding of polytechnics.

#### 5.6.2.2 Housing

Legislation has been introduced to allow tenants to opt out of local authority management, and housing trusts may, in selected urban areas at least, take over the management and ownership of large estates. The Government has made its intentions known to operate around local authorities if necessary (Davies, 1988 : 94). Chandler (1991 : 43) writes that those local authorities, which appears to be a large majority, that wish to retain control of their housing can be forced to relinquish estates if they are declared by the Government to be housing action trusts. In these circumstances the Government transfers the estate to a trust formed outside local government control which will refurbish the estate and then transfer ownership to a private landlord or a housing association.

John (1991 : 66-67) adds that the **Housing Act**, 1988 is designed to reduce the direct providing role of local authorities by enabling the transfer of the tenancies of council houses to other bodies. Initially it appeared that housing action trusts would be an important part of the policy, which are organisations with powers to act as the landlord over local authority housing stock with the powers and finance to refurbish it in areas seen by the central government to have particular public housing problems.



John (1991 : 67-68), in concluding, states that the Government has taken away the powers of local government by creating housing action trusts, approving transfers and controlling housing subsidies. Local authority discretionary powers are restricted in that they lose the power to subsidise council rents and are required, under certain circumstances, to transfer their housing stock. Their providing function is also reduced as they become one among other suppliers, with housing associations and other bodies subject to the supervision of the National Housing Corporation.

Thus, it can be stated that the central government has so reduced the powers of local government in respect of housing, that its role has shifted from direct provider to that of a facilitator.

#### 5.6.2.3 Compulsory Competitive Tendering

Whilst the **Local Government Planning and Land Act**, 1980 made competitive tendering compulsory for only some housing maintenance and highways repairs, the **Local Government Act**, 1988 makes provision for local councils to compete for the right to deliver services, such as, refuse collection, cleansing services, leisure activities and environmental health (Painter, 1991 : 192). John (1991 : 68) states that school and welfare catering, ground and vehicle maintenance, and the management of sports and leisure facilities have since been added to the list of services which are subject to compulsory competitive tendering.

Painter (1991 : 193) is of the opinion that the **Local Government Act**, 1988 is intended to have two effects, namely:

- the councils, unless there are clear reasons for doing otherwise, must accept the lowest tender, and by so doing, it is hoped to reduce overall expenditure; and
- the increased use of private service producers will enlarge the private sector's share of the economy at the expense of the public sector.



Mather (1992 : 216) concludes that contracting out will revolutionise the practical business of service delivery by local authorities, as well as transform the very nature of local government itself. It now seems clear that local government is changing its nature as it withdraws from the direct provision of services to a much more modest role as specifier, purchaser and regulator of community services, that is, to play an enabling role in service provision.

#### **5.6.2.4 Enabling Authority**

The Government's post-1987 programme calls into question the tradition of direct service provision, planning and regulation through local authorities. The role of a local authority will become a matter of 'enabling' and not of 'providing'. Local authorities will retain responsibility for some services but they will not be expected to organise the provision of those services directly. Moreover, local authorities are no longer to be the only or dominant agents of service delivery. The responsibility for services will be shared with other public and private sector organisations (Stoker, 1992 : 157).

Chandler (1991 : 37-38) is of the opinion that the local authority would not itself undertake the actual provision of a service by, for example, employing refuse collectors and owning street cleaning equipment. Private companies would compete among themselves for contracts to provide services awarded by the local authority. Thus, a major function of the enabling authority would be to determine what services were needed for the community, to draw up contracts specifying the work required and then to seek tenders from private firms to undertake the contract.

Chandler (1991 : 38) adds that local authorities would have to raise the money through local taxation, grants or charges to pay the private firms for the work they undertook on their behalf. Such a local authority would employ few manual workers and the majority of its staff would be officials concerned with determining what services were needed, and drawing up, evaluating and monitoring contracts.



According to John (1991 : 71) there are several obstacles to the emergence of the enabling authority, namely:

- central government retains broad discretionary powers to direct and control how local authorities exercise their enabling role;
- the decentralised institutions of service delivery and contracted out services are formally separated from local authorities; and
- local government's powers have been constrained; it is less able to promote policies with a redistributive or welfare aspect.

The various interpretations of the enabling role clearly evoke notions of decentralisation, popular planning, tenant participation, aid to community groups and attempts to involve hitherto excluded groups in the local decision-making process (Gyford, 1991 : 2). The extent to which a local authority can influence an external agency depends on the relationship between the two bodies, which relationships fall into the following categories, namely, control, partial control, partnership, part ownership, purchasing, support, regulatory and the capacity to influence (Brooke, 1989 : 11).

In conclusion, it can be stated that since 1987 the central government has implemented various decentralisation policies which have taken away powers from the local government, and consequently reduced its role, particularly in respect of education, housing and through compulsory competitive tendering, that is, horizontal decentralisation.

It can also be stated that the traditional role of local government in Britain is losing impetus and is shifting towards that of an "indirect" provider of services, that is, an enabling or facilitating council. Furthermore, the emergence of local public/private partnerships to provide certain functions or facilities is gaining momentum.

### **5.6.3 LOCAL FINANCE**

At the end of the 1980's approximately a quarter of local authority revenue came from the domestic rate, another quarter from the business rate and half from central



grants. Under the system introduced for the 1990's local government will be able to set the level of only one-quarter of its total tax and grant income. It has no discretion over the business rate which is allocated according to government formulas and the rate support grant (Norton, 1994 : 379).

In 1990/91 government revenue support and other government transfers in Britain amounted to forty six percent, which with the redistributed business rate put sixty nine percent of income outside local control. The income from poll tax constituted thirty percent (Norton, 1994 : 382).

In June 1987, Mrs Thatcher declared that the poll tax was to be implemented and it was decided to remove transitional arrangements for households and to switch over to the poll tax on 1 April 1990, the so-called 'big bang' solution (Gibson, 1992 : 67). Humes (1991 : 117) adds that the Government in its efforts to reduce local expenditures further terminated the domestic rate, that is, property tax on non-commercial housing, and introduced a community charge, better known as a poll tax, in Scotland in 1989, and in England and Wales the following year. The Government made this change as a means of increasing local accountability, since all electors would contribute to local government expenditures under the new system.

Chandler (1991 : 63) explains that poll tax requires each individual over the age of eighteen to pay the same amount to the local authority each year, although there are several groups of people exempt from payment, such as school children, prisoners, monks and nuns. A further section of the population, including anyone on income support and students, is required to pay a reduced rate. The exact sum to be raised is determined by the local authority which, as in the case of the rates, decides how much it needs to acquire in taxes, and then divides this sum by the number of eligible tax payers. The freedom to raise whatever sum was thought necessary was, however, as with the rates, restricted by the Secretary of State for the Environment who retained powers to cap the level of poll tax set by a local authority. Norton (1994 : 380) adds that estimates of the rate payable per head show wide differences between areas, for example, under £200 in rural towns to £600 in the London Borough of Camden in 1989/90.



A by-product of the community charge, or poll tax, as it came to be named, was to create a high gearing between a council's spending decisions and its community charge. If government grant counts for seventy five percent of a council's spending, then a one percent increase in spending results in a four percent increase in community charge. Pressure on local authority spending is, therefore, maintained by the Government (Brooke, 1989 : 17).

Blair (1991 : 2) states that the changes to central grant and local taxation in terms of the **Local Government Finance Act**, 1988 sought partly to provide a greater incentive for local authorities to maximise income from fees and charges. This policy was further emphasised in the **Local Government and Housing Act**, 1989 which made specific provisions relating to fees and charges, in particular giving enabling powers to the Secretary of State for the Environment allowing new or amended charging powers to be introduced by order, with some exceptions, notably that a charge may not be imposed for the loan of library books.

The problems of collecting poll tax from April 1990 onwards proved substantial. Many local authorities faced a considerable degree of non-payment. Poll tax, was not only an unpopular tax but also expensive and difficult to collect. The débâcle of the local finance reform contributed to Thatcher's defeat in a leadership contest in November 1990. The system of local government finance was in the aftermath subject to another major review. On 21 March 1991 the demise of poll tax was announced (Stoker, 1991 : 180).

John (1994 : 420-421) writes that under the **Local Government Finance and Valuation Act**, 1991 the Government can cap all councils. The effectiveness of the new procedures means that the Government can set a lower level of increase in central grant. In March 1991 the Government increased the proportion of central grant going to local authorities from fifteen percent to seventeen-and-half percent, which raised the central funding of local authorities to eighty six percent of local spending, and increased the gearing effect to one in six or higher, greater than with the poll tax.



The council tax, which replaced the poll tax in April 1993 for the 1993/94 financial year, has a 'property part' and a 'personal part'. The former is based on a value assigned to a dwelling within each of eight bands relating to a valuation according to the estimated price the property would have fetched if sold on the open market on 1 April 1991. The personal part is fifty percent of the tax rate if two or more over eighteen year-olds are living in a dwelling (Norton, 1994 : 381).

Midwinter & McGarvey (1997 : 143) and Jones (1995 : 22) conclude that the implementation of the council tax in Britain has been smoother than the community charge. It has been much easier to collect and has aroused far less opposition. There have been significantly fewer complaints over property valuation than the central government had anticipated.

In summary, it can be stated that since the turbulent period as a result of the various finance reforms introduced by the Thatcher Government and the subsequent replacement of the community charge with the council tax, a calmness seems to have prevailed over local government finance in Britain.

Despite the foregoing, it can be concluded that the central government still applies stringent financial controls, for example, rate capping, and that local authorities are still dependent on central grants, particularly specific grants, which curbs their choice on spending.

#### **5.6.4 EVALUATION OF DECENTRALISATION POLICIES FROM 1987 TO 1999**

The decade of the 1980's proved traumatic for British local government and illustrated the central-local tension. Throughout the decade local government has been under pressure with attempts by the central government to reduce its functional portfolio by deregulation, compulsory competitive tendering, and giving functions to private sector bodies or to quangos operating beyond the arm of local democracy, such as urban development corporations. At the heart of the decentralisation policies and strategies were the financial restrictions, which eroded local autonomy (Kingdom, 1993 : 25).



The broad principles of decentralised reform which were pursued by the then British Government entailed financial accountability, competitive efficiency, user control and enablement. A trend was indicated from a relatively autonomous form of local government to an agency role with regard to the central government. The central government interventions in local practice marked of a shift from a tradition by which local politics have remained more separate from national politics than in any other country in Western Europe (Batley, 1991 : 211 & 217).

John (1994 : 430) is of the opinion that the following pertinent questions will have to be addressed to determine intergovernmental relations in the 1990's:

- the degree of discretion to locally elected authorities afforded by their current financial arrangements;
- the extent to which elected bodies make autonomous decisions over the local government functions for which they only have some responsibility; and
- the constraints and opportunities of the enabling role.

Kingdom (1993 : 22) concludes that the relationship between local and central government is best described as stewardship, in which central government allows local authorities some autonomy to manage efficiently tasks on its behalf provided they stick to the principles laid down by the Government, that is, within the ambit of a unitary system of government.

## **5.7 EVALUATION OF DECENTRALISED REFORMS**

In this section an evaluation will be made of the decentralised reforms pertaining to the criteria for comparison identified for the study in respect of Britain.

### **5.7.1 POLITICAL SYSTEM**

In Britain, although there are county and city governments, the real power to make political decisions resides with Parliament, and it has the right to control whatever powers the counties or the cities might exercise. Parliament has the power to grant the counties and the cities more influence, or to take away policy jurisdiction they may already control (Mahler, 1995 : 30).



Britain has no written constitution and, as such, local government has no guaranteed constitutional status. Under the doctrine of Parliamentary Sovereignty, statute is supreme. Acts of Parliament create and can abolish local authorities, as has been the case on numerous occasions, they grant them powers, determine their structures and boundaries, and their role in society (Jones, 1991 : 167). In concurring, Norton (1994 : 356) adds that there is no written constitutional underpropping of doctrines about local governments' rights and status, nor any statement defining its role within the local community. With no constitutional rights and status, nor any statement defining its role within the local community, the Government of the day views local authorities as little more than its agencies.

There are historically two distinct levels of government in Britain, namely, central and local, both originating in appointments and grants of liberties by the Crown (Norton, 1994 : 355). Developed countries, such as Britain, are basically capitalist in nature and are a product of an early transition to societies based on market relations. The creation of a liberal political order against feudal privilege and absolute monarchy was the key in the establishment of a market society to be followed by later democratisation (Hague & Harrop, 1987 : 48).

In conclusion, it can be stated that Britain is a developed country with a majoritarian democracy and a unitary system of government. The British constitution is classified as "unwritten" and as such there is no entrenched provision for local government as a level of government. As creations of legislation, local authorities can be construed as agencies of the Government of the day.

Flowing from the foregoing, it can also be stated that the intergovernmental relations in Britain are dominated by the central government.

## 5.7.2 LOCAL POLITICAL STRUCTURE

In England and Wales the **Local Government Act**, 1972 established a two-tier structure of representative general-purpose counties and districts in metropolitan areas and a three-tier structure in non-metropolitan areas comprising counties, districts and parishes. The **Local Government (Scotland) Act**, 1973 brought



about a two-tier structure of representative general-purpose authorities in Scotland comprising regional and island councils and on the lower tier district and island councils. The **Local Government (Scotland) Act**, 1994 brought about further reforms to the structure of local government in Scotland by replacing the two-tier structure implemented in 1975 with a single tier structure in 1996 of representative general-purpose authorities. According to Midwinter & McGarvey (1997 : 76) the number of special-purpose authorities were increased from seven to thirty two.

In 1998 local government in the non-metropolitan areas of England was again restructured by the creation of additional single-tier or unitary district councils and the reduction of the number of counties (Leach & Stoker, 1997 : 13). In England and Scotland, therefore, the creation of unitary local authorities is on the increase, which is contrary to the objectives and values of decentralisation as well as the principles which applied to the structural reforms of the 1970's.

The passing of legislation to abolish the Greater London Council and the six Metropolitan County Councils, that is, the top tier authorities, proved to be the most troublesome issue of the 1983 to 1987 Conservative Government. Despite widespread opposition from the local populace, the abolition of the Metropolitan County Councils and the Greater London Council became law with the implementation of the **Local Government Act**, 1985 (Chandler, 1991 : 27-28). It can be stated that these councils were Labour Party controlled and were abolished for primarily political reasons.

In summary, the political structure in Britain comprises two spheres, that is, central and local, the latter of which in England comprises three and one tiers with regard to non-metropolitan areas and one tier with regard to metropolitan areas. In Scotland local government comprises a single tier.

It can be stated that local government in Britain comprises representative general-purpose authorities with an ever increasing number of special-purpose authorities being established. Local government, however, forms a relatively weak level of government in relation to the central government in terms of dependence on financial resources and limited influence at the national level of government.



### 5.7.3 LOCAL FUNCTIONS

The recognition of local government as a general-purpose provider of services began to fade from the 1930's with the loss of functions such as assistance to the unemployed, hospitals, relief for the poor, electricity and gas supply and sewage disposal (Norton, 1994 : 353).

The various Thatcher Governments increasingly questioned the efficiency, quality and appropriateness of local government provision of services and reduced the scale of local government's functional responsibilities through privatisation by giving special incentives for tenants of public sector housing to purchase dwellings, the removal of London transport from local authority control, and, in education, the removal of polytechnics, the imposition of a national curriculum, and finally by giving schools fiscal incentives to function independently from local government (Gibson, 1992 : 55).

In concurring, Cochrane (1991 : 282) writes that the third Thatcher Government elected in 1987 was explicit about its ambition to reorganise and restructure Britain's local government system. No area of government responsibility escaped scrutiny, with education and housing being the most obvious targets and the extension of compulsory competitive tendering with the view to the privatisation of local services. Hambleton *et al* (1989 : 43) add that privatisation is gaining momentum in Britain within both local government and the National Health Service. Even before Thatcher's third term of office, over forty local authorities were engaged in the planning or implementation of privatisation initiatives in a variety of service areas, with particular emphasis being given to housing.

The then Government's programme in the late 1980's called into question the tradition of direct service provision, planning and regulation through local authorities. The role of a local authority became a matter of enabling and not of direct provision of services (Stoker, 1992 : 157).

It may, therefore, be concluded that local authorities have been obligated to privatise a number of functions and to enter into a process of compulsory



competitive tendering in respect of other functions. A number of functions have also been taken away from local authorities by central government, which are now being undertaken by organisations or agencies specifically established for the purpose, that is, by either delegating decision-making authority or by transferring decision-making discretion to such institutions. Thus, most functions have remained at the "local" sphere.

Furthermore, the enabling role of local government is gaining momentum in Britain as well as the establishment of local public-private partnerships to provide certain facilities and functions.

#### **5.7.4 LOCAL FINANCE**

In Britain, local authorities derive their revenue from primarily three main sources, namely, grants from the central government, local taxes and fees and charges.

When the Conservatives came into power in 1979, all British local authorities had the freedom to set their own chosen level of revenue, expenditure and rate poundage, that is, the tax level of rates. In 1990 as part of the reforms involving the replacement of domestic rates by the poll tax, control of non-domestic rates had passed to central government and by 1991 the freedom to set local tax levels had been removed. All local authorities had been issued revenue expenditure ceilings, exceeding which would subject them to central government capping (Gibson, 1992 : 55).

At the end of the 1980's approximately a quarter of local authority revenue came from the domestic rate, another quarter from the business rate and half from central grants. Under the system introduced for the 1990's local government will be able to set the level of only one-quarter of its total tax and grant income. It has no discretion over the business rate which is allocated according to government formulas and the rate support grant (Norton, 1994 : 379). Local authorities are, thus, heavily dependent on grants from the central government.



In 1990/91 government revenue support and other government transfers in Britain amounted to forty six percent, which with the redistributed business rate put sixty nine percent of income outside local control. The income from poll tax constituted thirty percent (Norton, 1994 : 382). In April 1993 the council tax was introduced which replaced the short-lived poll tax. The council tax is on households and is based on the capital value of their residence (Jones, 1995 : 22).

According to John (1991 : 61) the change in central-local relations over the Thatcher era involved central government acquiring and using broad discretionary powers over local government, particularly over its financial decisions, and increasing specific grants to local authorities, thus, restricting the autonomy and discretionary powers of local government.

It can be concluded that local authorities are dependent on grants from central government for some fifty percent of their budget and that stringent financial controls have been imposed through various pieces of legislation which govern the spending of local authorities.

## **5.8 SUMMARY**

Local government in Britain has undergone a series of decentralised reforms in the past century, which were particularly radical during the Conservative Government's reign under Prime Minister Margaret Thatcher.

During the period 1890 to 1930 local government in Britain was recognised as being a general-purpose provider of local services, which included hospitals, electricity and gas supply, water supply and sewage disposal. However, from the 1930's local government started to lose a number of functions, the root causes being its political weakness, the low priority given to local autonomy and control and the inefficient provision of services.

Over the period 1930 to 1972 numerous Acts of Parliament were passed and Royal Commissions appointed with the view to ensuring that the structure of local government could adequately cope with the demands pertaining to the services it was required to provide.



The Royal Commission under Lord Redcliffe-Maud in 1969 proposed comprehensive changes to the structure of local government in England and Wales, which *inter alia* entailed sixty one new local government areas to displace the existing boroughs, urban districts and parishes.

Flowing from the Redcliffe-Maud Commission's proposals, the **Local Government Act, 1972** established a three-tier structure of local government consisting of counties, districts and parishes in non-metropolitan areas and a two-tier structure of counties and districts in metropolitan areas in England and Wales. The two-tier structure of the Greater London Council remained in place. This system was implemented in 1974.

The Royal Commission under Lord Wheatley also in 1969 proposed that Scotland should have a two-tier structure of local government, the top tier to be known as "regions" and the lower tier as "districts". The new structure proposed by the Commission was established by the **Local Government (Scotland) Act, 1973** and implemented in 1975, that is, one year after England and Wales. This system of local government was replaced by a single tier structure comprising thirty two representative general-purpose authorities which were established in terms of the provisions of the **Local Government (Scotland) Act, 1994**.

In 1979 Margaret Thatcher was elected prime minister after the Conservatives' victory in the general elections of that year. From the outset the Government set about to control and curtail local government expenditure. Numerous Acts of Parliament were passed, which included the setting of targets within which local authorities should operate, failing which they were penalised, by reducing the block grant and increasing specific grants as well as rate-capping.

The Thatcher Government also introduced legislation in 1980 which gave tenants the right to buy houses at reduced rates, which was one of the most successful privatisation policies of the Conservative Government. Furthermore, the **Transport Act, 1985** abolished the bus licencing system controlled by local authorities and the **Education Act, 1986** took certain powers away from local authorities and gave them to parent governors. Local authorities also had to privatise numerous



services and enter into the compulsory competitive tendering process in respect of other services.

From 1979 to 1986 there has, therefore, been a considerable shift in power and influence to central government and a restriction of the role of local government in setting local policy, which had a negative impact on central-local relations.

On 1 April 1986 the Labour Party controlled Greater London Council and the six Metropolitan County Councils were abolished, ostensibly due to their strong opposition to the Government's reform policies.

After the victory of the Conservatives in the general elections of 1987, the Thatcher Government proceeded to implement further measures to control local government finances, such as the introduction of the community charge or poll tax in 1990, which proved to be Thatcher's downfall in 1991. Poll tax was replaced by the council tax in 1993.

During Thatcher's third term of office, that is, from 1987 to 1991, no area of local government responsibility escaped scrutiny, with education and housing being the main targets as well as compulsory competitive tendering.

The **Education Reform Act**, 1988 *inter alia* removed local schools from local government control and the **Housing Act**, 1988 reduced the direct providing role of local authorities by making provision for the transfer of tenancies to other organisations. The **Local Government Act**, 1988 required local councils to tender for the provision of a number of services on the open market.

During Thatcher's reign local governments lost a number of functions either to central government agencies or to the private sector, central control was tightened substantially particularly with regard to finances, which negatively effected local autonomy and central-local relations, that is, the centralisation and privatisation of local functions.



Since Thatcher's demise, local government in Britain has been allowed to settle down, mainly due to a change in the style of politics. A new set of conditions seem to have altered the form of central approach towards monitoring and regulating local authority performance and policy delivery.

The Blair Labour Government also agreed to the establishment of additional unitary authorities in the non-metropolitan areas of England and to the reduction to the number of counties, which changes were implemented in 1998.

The next chapter will deal with the decentralised reforms to local government effected in another selected developed country, namely, the United States of America.



## CHAPTER 6

### LOCAL GOVERNMENT IN THE UNITED STATES OF AMERICA

#### 6.1 INTRODUCTION

The United States of America has a federal system of government comprising fifty states and some eighty six thousand units of local government which can be divided into four forms, namely, counties, cities or municipalities, towns, townships or villages and special districts. There are three spheres of government in America, that is, federal, state and local. Each sphere is democratically elected on a regular basis.

American local government is experiencing problems with regard to duplication and overlapping of local areas and functions as well as fragmentation and proliferation of local governments with ever increasing costs to the ratepayers.

Numerous efforts and initiatives have been made to address the foregoing problems which *inter alia* comprised the consolidation of local units. These reform initiatives, however, encountered strong resistance and over the years have met with only limited success, primarily due to the ideology and belief of the American people in the decentralisation of power, that is, having an autonomous local government which is close to the people.

In the sections to follow in this chapter the historical development, political system, local political structure, functions and finance will be addressed, aspects of which can be utilised when developing an appropriate system of local government for South Africa. An evaluation will thereupon be made of the decentralised reforms pertaining to the criteria identified for comparison in respect of the United States of America for later analysis in the context of South Africa.



## 6.2 HISTORICAL DEVELOPMENT

The origins of American local government were predominantly rural. At the end of the eighteenth century all but one in twenty inhabitants lived in rural areas. Small settlements spread across the continent, leading to administrative structures that virtually remain unchanged in most areas despite their mismatch with modern patterns of settlement (Norton, 1994 : 394).

American local government has an ancient lineage reaching far back in history. The system of local institutions in the then colonies strikingly resembled the pattern of local government existing at that time in England, which is to be expected since most of the earliest settlers came from England and brought their homeland's ideas, concepts and institutions to the New World (Blair, 1964 : 18).

The geographical characteristics outlining the various states of the United States of America are reflected on Map 6.1 (Lye, 1997 : 330).

**Map 6.1 : United States of America**





Diversity of culture and contrasting economies led to wide variations in the structure and style of government. The town governments of New England derive from the European borough government, whilst local government in the plantation areas to the south was a development from the British county institutions. The middle Atlantic states have a mixture of these town and county institutions (Norton, 1994 : 394).

Blair (1964 : 21-32) states that the pattern of local government in England during the sixteenth and seventeenth centuries was introduced to America by the early settlers, which resulted in the development of three basic patterns, namely:

- The New England town system whereby the unincorporated town emerged as a basic growing unit in Massachusetts, New Hampshire, Connecticut and Rhode Island. This pattern of settlement was dictated by the geography of the region and the towns flourished because they served the economic, social and political needs.
- The county system was the dominant unit of local government in the southern colonies and was a natural response to the prevailing economic and social conditions. Just as town government flourished in New England because it served the needs of the settlers, so did the county in the more rural southerly regions. The geography and climate of Virginia contrasted sharply with that of Massachusetts. In Virginia the climate was suited to rural living and the rich soil was favourable for the growth of tobacco. Thus, the colonists were encouraged to locate on farms rather than to congregate in group settlements.
- The county-township system whereby, as in the case of the foregoing two systems, geographical, economic, social, religious and political factors were important influences in the middle colonies of New York, Pennsylvania, New Jersey and Delaware. This system of local government has often been referred to as a compromise between the two patterns existing in the colonies to the north and south.

Keller & Perry (1991 : 31) agree that the structures of local government evolved over time as political reactions to their context. Structural and social reform, demographic shifts and fiscal crises are all examples of contextual changes which,



in turn, caused significant transformations in local government. The structures of government are products of their context, with public agencies embedded in these structures.

It was during the nineteenth century that what still remains as a central paradox in American local government emerged, that is, a marked ambivalence towards urbanism and the city. Even as a majority of Americans became urban dwellers, few were reconciled to the city as a first choice for residential settlement. As far as local government was concerned, this ambivalence produced what effectively became a dual system. Small towns and villages developed their own representative institutions, often modelled on the colonial or English examples (McKay, 1983 : 127).

McKay (1983 : 127-128) adds that largely non-party political local assemblies and, eventually, separately elected administrations headed by a mayor became the main expressions of local democracy. Local government responsibilities were few, minimal law and order, sanitation and eventually elementary and secondary education being the main functions. Significantly, only education required sizeable fiscal support, which explains the emergence of school districts with school boards responsible directly to the electorate. During the late nineteenth and early twentieth centuries further special districts emerged, each with its own taxing power to provide for fire protection, sewerage, water supply and a host of other services.

Norton (1994 : 394) is of the opinion that settlers often brought a distrust of higher government with them. The American revolution was fought to defend autonomy, industry and trade against a centralised executive. At first councillors tended to be as involved in detailed administration as where those in the British boroughs and counties, in that they or the state governor appointed their officials. Growth in scale led to increasing dependence on officials and from about 1820 there was widespread adoption of popular direct election of financial controllers, attorneys-general, superintendents of education, department heads, judges and sheriffs.

In reaction to what was considered a corrupt and undemocratic system, a middle class reform movement emerged in the late nineteenth century intent on cleansing



the cities of machine politics. Accordingly, party labels were removed from voting lists, elected mayors were replaced by city managers appointed by the local assembly, candidates were elected or from a list covering the whole city and primaries were introduced in order to deny the party machines control over nominations for office (McKay, 1983 : 129).

According to Norton (1994 : 394) a reaction in the 1870's led to state restrictions and a policy of appointing new employees on grounds of competence rather than party. Attempts to isolate administration from politics by setting up boards and commissions with wide powers rather than single administrators, led to an extreme fragmentation of responsibilities and accountability with no overall direction. Citizens were bewildered by the maze of local agencies and the long list of offices for which they were required to choose among candidates.

An alternative response to the corruption and maladministration proposed strengthening the chief executive by introducing direct elections for the office of mayor, and by the 1920's a majority of large American cities had acquired strong mayor systems. By contrast, most smaller towns and cities had acquired council manager arrangements, while a third group had weak mayor systems and a fourth commission government (McKay, 1983 : 129).

By the 1960's integrated planning and budgeting processes had been developed in some local authorities. In larger authorities the assembly or council might be expected to focus its attention on legislation, regulation and key decisions, including budget approval, leaving management and execution to the executive (Norton, 1994 : 395).

Keller & Perry (1991 : 32) write that the twentieth century can be described as the century of suburbanisation in the United States of America. After World War II, a spatial relocation of the population occurred with most central cities losing population shares to their suburbs. Most Americans are now in suburbs with a decidedly smaller percentage in central cities. These social and spatial shifts have radically influenced the structure, location and functional variation of local government. Norton (1994 : 395) adds that from the 1960's the cities lost



resources on a drastic scale through emigration of internal resources to industry and more affluent inhabitants to outside their borders. Their ability to service poorer inhabitants and fend off serious breakdowns of order and protect property declined sharply. The cities rapidly became more dependent on state and federal grants.

## **6.3 POLITICAL SYSTEM**

In this section some of the pillars of the American political system will be discussed briefly, namely, the constitution, the executive and local government.

### **6.3.1 THE CONSTITUTION**

The basic structure of the American system of government is set out in a written Constitution of the United States, drawn up in 1787, ratified in 1788, and instituted in 1789. It is the world's oldest written Constitution still in force (Ranney, 1992 : 566).

The drafters of the Constitution left the multi-layered governmental system in the United States of America untouched. While they made the national structure supreme, they wisely recognised the need for a series of governments more directly in contact with the people and more keenly attuned to their needs. Thus, only a limited number of functions, such as, the management of currency, raising an army, diplomatic and foreign policy and waging war were reserved for the Federal Government (Glick, 1989 : 1). The Federal Government is also able to regulate inter-state commerce and, through this device, has become in the twentieth century increasingly involved in detailed regulation of social and commercial activities throughout the federation. Outside this framework, the states are free to govern their communities as they see fit. They consequently have authority over the form of local government within their territories, as well as elements of civil and criminal law, policing, public works, education and planning (Chandler, 1993 : 138).



Ferguson & McHenry (1971 : 740) state that local government is not enshrined in the Federal Constitution. The omission is explained by the expectation that their establishment and control was a state responsibility. Legally, local governments are viewed as arms or agencies of the states and therefore are subject to the same constitutional prerogatives and prohibitions. Rassel (1995 : 135) adds that relationships between state and local governments are defined by the Constitution and laws of the state in which the local authority is situated. The Federal Constitution is silent on issues of local government.

In concurring Keller & Weinstein (1991 : 63) write that local governments are principally controlled by state, rather than Federal Government. However, the Federal Constitution and concerns about federalism also constrain the powers of local governments in the following ways:

- Local governments may not violate those portions of the Federal Constitution that are applicable to the states either directly or through incorporation in the due Process and Equal Protection Clauses of the Fourteenth Amendment.
- Local and state legislative or regulatory actions may be barred under the Supremacy Clause of the Federal Constitution if the subject matter of the legislation or regulation has been pre-empted by action of the Congress. Pre-emption is found when Congress expressly states its intent to bar action by state and local government or when the courts find an implied congressional intent to pre-empt because the federal legislative scheme is pervasive or the federal interest in the subject matter is dominant.
- The Federal Government exerts significant control over local governments by making them subject to the requirements of various federal laws.
- Federal control is exerted through a number of federal spending programmes that condition the receipt of grants on local government meeting certain federal standards.

According to Ranney (1992 : 566) and Wright (1995 : 99) the provisions of the written Constitution of the United States and their associated customs and usages add up to a constitutional system that has three distinctive features, namely, federalism, separation of powers, that is, the constitutional division of Government



power among separate legislative, executive and judicial branches, and judicial review.

Figure 6.1 illustrates and indicates the fact that the Constitution of the United States of America confers powers direct on the Federal Government and also on the respective fifty states (Wright, 1995 : 100).

**Figure 6.1 : Organisational Systems and Structures of Governments**

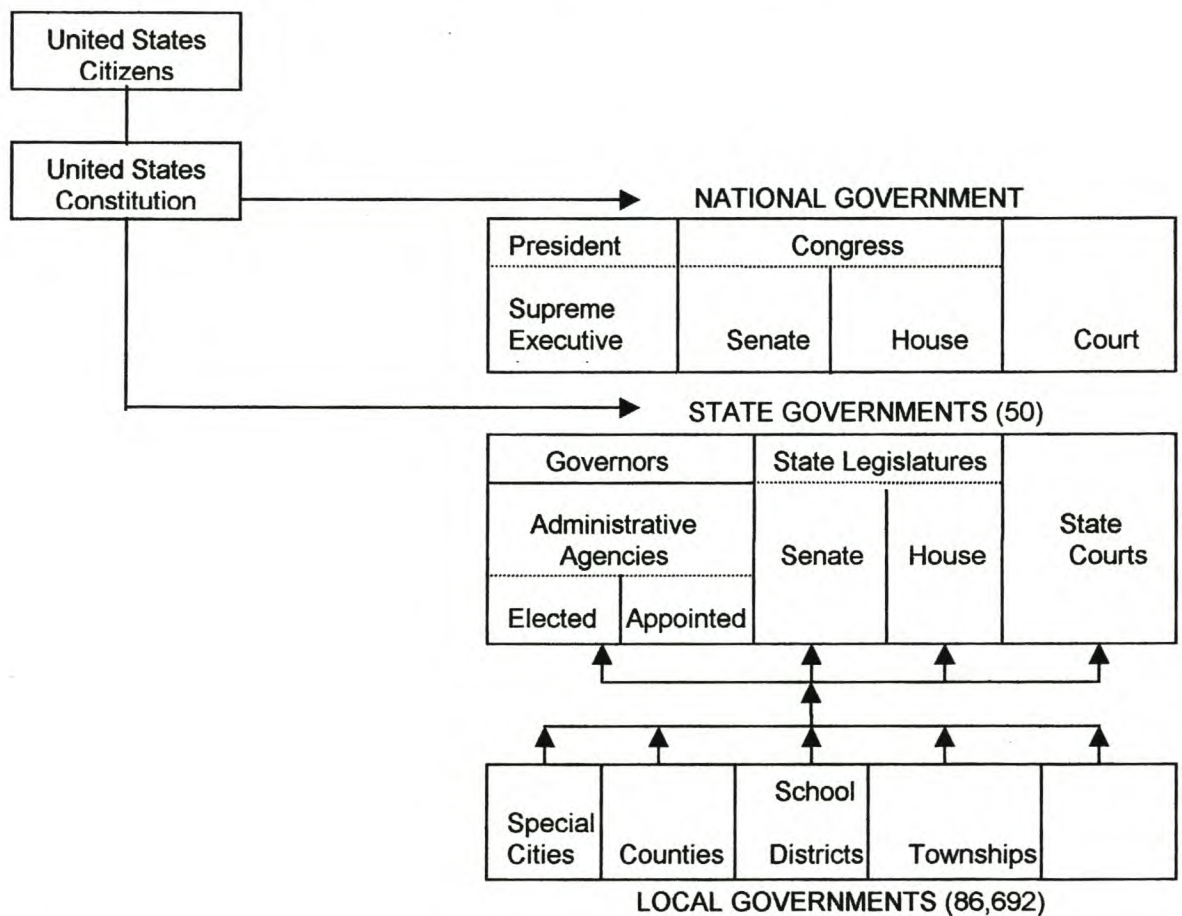


Figure 6.1 also conveys the simplified legal nature of federalism as well as the dependent and subordinate position of the various forms of local authorities that have been created or established by the fifty state governments. The doctrine of dependence by local authorities on state actions is one of several paradoxical and often confusing aspects of governance in the United States of America, which is especially true in relation to widespread perceptions that local self-government is a major component if not an essential element of democratic governance in the country (Wright, 1995 : 100-101).



In concluding, Wolman (1995 : 136) writes that in the American context there are several schools of thought that relate fundamental values to local governmental institutional structure. The fundamental values include individual participation, pluralism and representative democracy, and efficiency, each of which has differing consequences for the local government structure. The bedrock of American local democracy is that the role of local government is to reflect the will of the people and that direct participation in local government is the best means of achieving this goal.

### **6.3.2 THE EXECUTIVE**

The American Executive comprises the chief executive and the presidency.

#### **6.3.2.1 Chief Executive**

The President is the chief executive of a vast and sprawling executive institution with special and personal powers, which in the United States derive directly from the Constitution and from the fact of the President's election by the people. According to the Constitution, the President is commander-in-chief, foreign policy negotiator, manager-in-chief, party leader, spokesperson of public interest and broker of ideas and policies (Macridis & Burg, 1991 : 30-31).

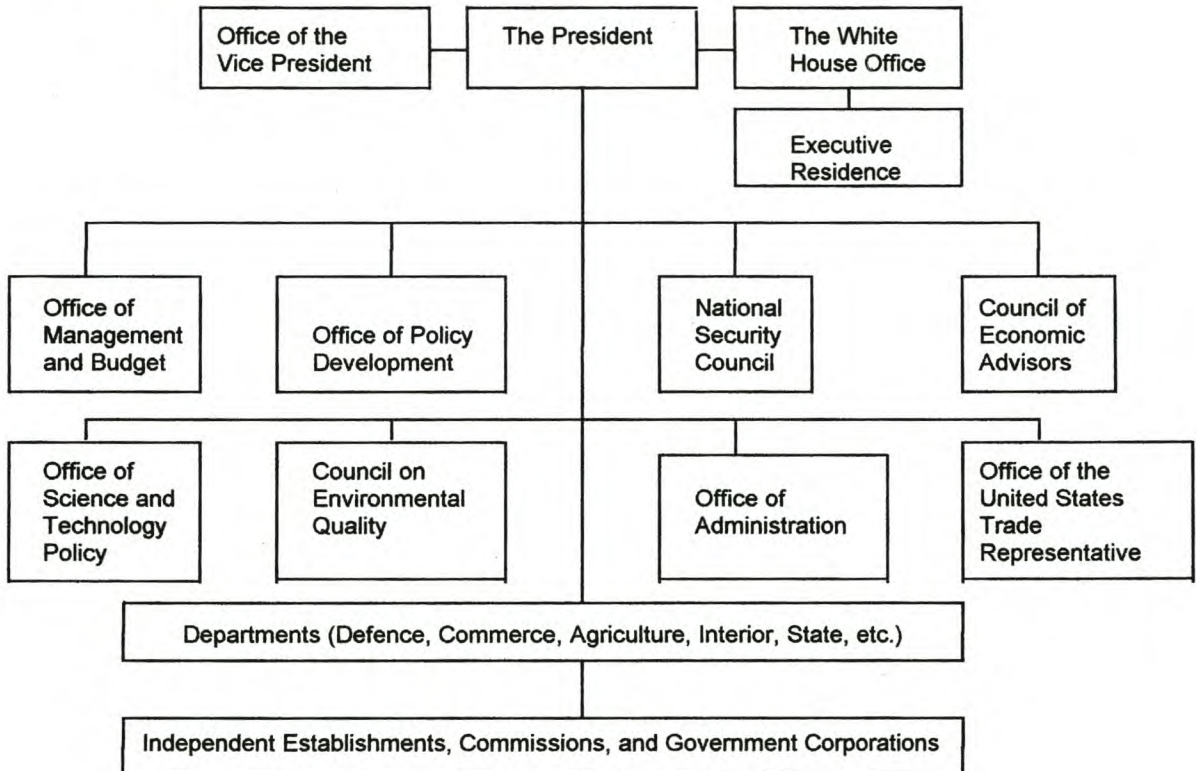
#### **6.3.2.2 The Presidency**

The President is at the top of the executive branch with his/her own office, known as the Executive Office of the President. He/she is assisted by a personal staff, known as the White House Office. The Executive Office consists of a number of agencies and committees that guide, regulate and supervise the various departments or act directly on his/her behalf. Some provide research and information, others co-ordinate and decide on major policies and provide the major policy guidelines. An enormous delegation of responsibility is therefore implicit in the structure of the presidency and the offices it comprises (Macridis & Burg, 1991 : 31-32).



Figure 6.2 reflects the formal organisational structure under the control of the President (Macridis & Burg, 1991 : 32).

**Figure 6.2 : Executive office of the President**



Institutions such as the Presidency play a major role in the success, or even the possibility of 'big government' as it is known today. The essential elements are fiscal policy, including control of expenditure, taxation, and the use of these to accomplish social ends; the closely related function of economic planning; co-ordination of agencies; personnel policies; liaison with the legislature and the public; administrative organisation; investigations of the sphere of advisable government operations as well as both long and short-range planning (Griffith, 1983 : 70-71). The functions of the Presidency, therefore, have an influence on local government.

Chandler (1993 : 149) writes that the Federal Government has an impact on local policy-making through grant aid programmes, although President Reagan's attempts to return to dual federalism somewhat curtailed this channel of influence. Nevertheless, there remain numerous categorical grants still conveyed directly to local government which require the recipient to follow the instructions enclosed with



the funding parcel. Walker (1991 : 119) adds that in 1980 President Reagan managed to reduce the Federal Government's intergovernmental role, to devolve various federally-aided programmes to state and local governments, reduce the heavy reliance on the traditional federal-state partnership with a scrapping of the multiple federal sub-national governmental relationships and, in general, reduce governmental activism at all the levels of government, state and local as well as federal.

#### **6.3.2.3 CIVIL SERVICE**

The functions of the Federal Government have so grown that there are few aspects of national life outside the span of its interest, if not its regulation. This growth is reflected in the multiplication of agencies to the point that few people, if indeed any, can really comprehend them in all their ramifications (Griffith, 1983 : 77).

Griffith (1983 : 77) continues that until approximately 1900, substantive changes in this Civil Service were entirely associated with the growth of, and additions to the great departments of "cabinet" rank. State, War and Treasury departments were the first to appear, but were soon followed by Navy, Justice and Post Office. Later to develop were the Departments of Interior, Agriculture, Commerce, Labour and Air Force, the last accompanied by the three branches of the armed services into the single super-Department of Defence. The Department of Health, Education and Welfare was established in 1953. The recent achievers of departmental status are Education and Energy, Education's foundation resulted in renaming Health, Education and Welfare, the Department of Health and Human Services.

The Civil Service deliberates and legislates, organises and represents interests, adjudicates conflicts, and has wide discretionary powers in the provision of services without which the rights of the people would be seriously undermined. In terms of sheer presence and numbers, the Civil Service overshadows all other organs of the Federal Government (Macridis & Burg, 1991 : 37).



### 6.3.3 LOCAL GOVERNMENT

The geographical, economic, social, religious and political factors were important influences pertaining to the basic patterns of local government which were introduced in the then colonies of the New World during the sixteenth and seventeenth centuries (Blair, 1964 : 18).

Gunlicks (1991 : 77-78) writes the complexity of American local government in fifty separate states makes generalisation exceptionally difficult. Local government structures, historical origins, size and ethnic and racial make-up, financial status, the nature and extent of the problems and their capabilities in meeting the challenges that face them vary from one part of the country to another and even from one local government unit to another in the individual states. McKay (1983 : 125), in concurring, adds that not only does the United States of America have a large number of local governments, it has also acquired a network of intergovernmental relations whose fiscal, political and administrative complexity approaches the byzantine.

Table 6.1 depicts the forms of government in the United States of America between 1967 and 1992 (McKay, 1983 : 125, Gunlicks, 1991 : 81 and Wright, 1995 : 100).

**Table 6.1 : Forms of government in the U.S.A.**

Form	1967	1977	1987	1992
U.S. government	1	1	1	1
State governments	50	50	50	50
Local governments	79 862	81 248	83 186	86 692
Counties	3 042	3 049	3 042	3 043
Municipalities	18 862	18 048	19 200	19 296
Townships	16 822	17 105	16 691	16 666
School districts	15 174	21 782	14 721	14 556
Special districts	25 962	21 264	29 532	33 131
Totals	79 913	81 299	83 237	86 743

Keller & Perry (1991 : 32) state that it is not just the number of new local authorities that is impressive, it is also the forms of these authorities. The suburbanisation of America over this period has resulted in a considerable increase in suburban governments. There are not only cities, small municipalities, towns, townships and



villages but also countless forms of special districts both inside the old municipal boundaries and in the suburbs. Of particular note is the increase in the number of special districts, thereby compounding the problem of duplication and fragmentation.

Americans have become to rely on the local authorities to perform a wide variety of functions to the extent that meeting these needs is seen as a responsibility of the whole community acting through local government. Hence, the bewildering array of, and ever increasing number of local authorities (Glick, 1989 : 4).

Table 6.2 shows the changes in the number of local government units in metropolitan areas from 1962 to 1982 (Keller & Perry, 1991 : 33).

**Table 6.2 : Number of local governments in metropolitan areas**

Form	Number 1962	Number of all units 1982	Percentage Change 1982	Percentage 1962-1982
All	21 817	29 861	100	+36.8
Counties	407	670	2.2	+64.6
Municipalities	4 093	7 018	23.5	+43.1
Townships	3 282	4 756	15.9	+44.9
Special districts	6 153	11 725	39.3	+90.5
School districts	7 072	5 692	19.1	-19.5

Flowing from the foregoing (Mills & Hamilton (1994 : 316) write that most metropolitan areas in the United States of America comprise a multitude of local governments, which include counties, municipalities, townships and special purpose bodies, such as, school districts. The Chicago metropolitan area, for example, has more than one thousand one hundred local governments, and the New York City, Philadelphia and Pittsburgh metropolitan areas have more than five hundred local governments each.

Therefore, it can be stated that the number of local governments in the metropolitan areas of the United States of America is on the increase.

Throughout the century, and especially since the Second World War, urban reformers have pointed to the patchwork of fragmented and overlapping local



governments; to the lack of regional land-use planning and the resulting urban sprawl; to significant qualitative and quantitative differences among local jurisdictions in the delivery of urban services; to property and other tax differentials; and to myriad other unsatisfactory conditions of government at the local sphere in the United States (Gunlicks, 1981 : 10).

Norris (1997 : 118-119), in concurring, adds that since the 1960's, strong evidence has been mounting, which shows that uncontrolled metropolitan growth and metropolitan fragmentation have produced serious negative social, economic and environmental consequences in the United States of America. Suburban sprawl and metropolitan fragmentation have occurred simultaneously. Sprawl is a consequence of the urban population increase that has taken place in the absence of systematic, consistent metropolitan-wide land development controls and metropolitan-wide governing structures.

In summary it can be stated that the United States of America is a developed democratic country with strong British influences, which applies a federal system of governance, and in whose Constitution there is no provision for local government. However, though local authorities are created by the states, their rights and status can be protected through various state-charters, details of which will be addressed in the next section of this chapter.

## **6.4 LOCAL POLITICAL STRUCTURE**

In this section the legal status and forms of local government will be addressed, whereupon an evaluation will be made of the decentralised reform initiatives.

### **6.4.1 LEGAL STATUS**

Local authorities are created or established through the constitutional and legislative provisions of their respective states. The Federal Constitution makes no reference to local government and therefore allows the states authority to manage their internal divisions of government and administration, subject to their remaining within the current interpretations of the Federal Constitution. This



arrangement is legally affirmed through a ruling in 1868 of John Dillion, Chief Justice of Iowa, who maintained that the legislature of a state "breathes into municipal corporations the breath of life, without which they cannot exist. As it creates so it may destroy. If it may destroy it may abridge and control" (Chandler, 1993 : 140).

Local governments possess the powers that are granted to them by the state through "enabling legislation" and their existence, form and property are subject to state control. State control applies to all forms of local government, including municipalities, counties, unincorporated local units, special districts and public authorities. The limits on the state's control of local government are those that have been created by the state legislature itself, through statutes or constitutional provisions, that is, charters, and those required by the Federal Constitution (Keller & Weinstein, 1991 : 61).

Norton (1994 : 395) in elaborating writes that local governments are established in terms of separate state legislation or the constitution of the state in which they are situated by way of charters which enables the local populace to have a significant influence on their form, status, rights and privileges. Thus, there are fifty different state systems of local government, each quite separate from the other forty-nine. A state can abolish and supersede a local authority, but in practice politics places limits on the possibility.

In concurring, Gunlicks (1991 : 81-82) adds that as a general rule, local governments are created through state charters, and in legal theory, but not in political practice, can be disbanded or have their boundaries redrawn by the state legislature. Home rule provides local communities the opportunity to draft their own charters within state guidelines and recognises the right of municipalities to exercise broad discretionary authority over their own activities. Humes & Martin (1969 : 356) and Gildenhuys *et al* (1991 : 131) add that local governments in the United States of America receive their corporate status through state charters, of which there are four kinds, namely:



- Special charters are the oldest method of incorporation whereby each local authority is established by a separate and distinct act of the state legislature.
- General charters are applicable to all local governments in the states. In some states, local governments are divided into classes according to size of population, geographical location, or essential evaluation.
- Optional charters whereby local voters may choose one of several established forms of local government.
- Home rule charters provide local communities the opportunity to draft their own charters within state guidelines and recognise the right of local governments to exercise broad discretionary authority.

In nearly all the states, local governments can achieve a significant degree of control over their own affairs through a "home rule" provision in the state constitution. Home rule provisions give local governments autonomy from the state legislature by allowing them to exercise independent power over their own affairs without the need for state enabling legislation. Adoption of a home rule charter, however, does not mean that a local government becomes independent of the control of the state due to the fact that state courts decide on the extent of the home rule powers that a local government claims to possess, that is, whether a particular issue is only a local concern and thus ruled by the home rule charter, or is an issue of state-wide interest to be governed by the general state legislation. Further, while some home rule provisions do grant local governments the power to legislate over matters of general state concern, when local enactments conflict with general state law on matters of state-wide concern, it is the law of the state that will prevail (Keller & Weinstein, 1991 : 62).

In concurring, Caraley (1977 : 61) adds that the extent of autonomy granted to local authorities by state home rule provisions and home rule charters, is the power to decide on and make changes within the organisation of their government. However, home rule charters do not give complete autonomy to local governments or local electorates for adopting substantial policies and programmes, and local governments cannot use home rule procedures to enlarge the scope of their overall substantive powers.



Municipal corporations, usually termed cities, come into being after residents within a community petition for such status and the assent of the majority of its inhabitants is received following a local referendum. The area will then be granted a charter which is, in effect, the constitution of the city. Many states classify cities according to population and provide a charter with considerable powers for larger communities and more restrictive arrangements for smaller populations (Chandler, 1993 : 140).

Despite their entrenched position, local governments are subject to state constitutional provisions as well as state legislation applicable to all local authorities of the population class (size) to which it belongs. Charters can usually be amended the same way that they are originally issued or adopted. Thus, special or general charters can be amended by further special or general state legislation, while home rule charters provide for their own self-amendment locally (Ferguson & McHenry, 1971 : 742-743 and Caraley, 1977 : 80). Over seventy five percent of the municipalities in the United States of America have home rule charters, that is, charters framed and adopted by local community action without reference to state legislature (Gildenhuys, 1991 : 131).

Blair (1964 : 62) writes that since units of local government are legally established through state constitutions and legislation, the right of the state to provide a general framework for its local authorities is unquestioned. State legislation is assigned a six-fold task in shaping its local governments, namely to:

- make provision for various charters in the constitutions for the establishment and incorporation of local units;
- determine the powers of local governments;
- provide alternative forms for local governments through general law and home rule charters;
- prescribe methods for the alteration of boundaries;
- permit the consolidation of neighbouring local units; and
- enact provisions for the dissolution or de-organisation of such local units.



According to Norton (1994 : 396) the functions of local authorities are in general specifically defined, and local authorities if challenged must be able to demonstrate in the courts that they have legal authority for their activities. Both general-purpose local authorities, that is, municipalities, counties, towns and villages, and special-purpose bodies, of which there are a great number, are regarded as both public corporations and local governments. They have legal personality separate from the citizens.

Flowing from the foregoing, Norris (1997 : 122) writes that state constitutions contain numerous provisions guaranteeing the status of local governments. The state constitutions, for example, often contain provisions for the existence, structure and functions of local governments. Consequently, American local authorities possess both constitutional and legal status. Furthermore, local authorities are granted specific, and in many cases exclusive, territory by constitutional or legal provisions.

In conclusion, the United States of America comprises three spheres of government, namely, federal, state and local. The local institutions are established *via* separate state legislation or charter provisions in the constitutions of the state governments in which they are situated and in this way obtain their corporate status, which depending on the charter granted, gives the local institutions a measure of autonomy from the state legislature to conduct their own affairs. The local sphere of government, as such, does not comprise tiers as found in, for example, Britain in that there are a limited number of two- and three-tier structures in the United States of America, details of which will be described in the next subsection.

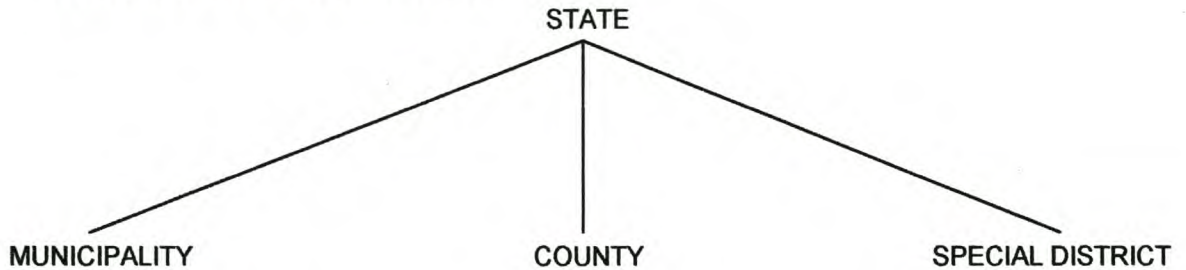
#### **6.4.2 FORMS OF LOCAL GOVERNMENT**

In most of the states local government can be divided into municipalities, counties and special districts. Although each of these local institutions may carry out functions in an area administered for other purposes by another form of local government, the United States of America does not have tiers of local government in the style of Britain. Each local authority is independent, although all are subject to control by the state in which they are situated (Chandler, 1993 : 141).



Figure 6.3 gives a diagrammatic representation of the structure of local government in the United States of America (Chandler, 1993 : 142).

**Figure 6.3 : Local Government Structure**



In this subsection the four forms of local institutions found in the United States of America, will be discussed in chronological order, namely, counties, municipalities, towns, townships or villages and special districts.

#### **6.4.2.1 Counties**

Counties are units of local government which primarily perform functions as agents for their respective state governments, that is, delegated functions. In the New England states the county is primarily a judicial district; in the southern and far western states, it serves as the only unit of local government for all the areas outside the incorporated municipalities and is responsible for courts, education, health, public welfare, public works and roads. With the foregoing exceptions, municipalities are located within the geographical boundaries of the county, and their residents pay county taxes over and above those paid to the municipality. Whilst some county services are provided direct to the residents of the municipalities or cities, the counties do not, however, exert administrative control over these urban areas (Humes & Martin, 1969 : 36). County government generally has a large budget, reflecting receipt of substantial state monies, notably for highway construction and maintenance, and receipt of federal grants, notably for welfare programmes (Bowen, 1980 : 233).

Norton (1994 : 402) writes that two-thirds of 'standard metropolitan areas' are located within the geographical boundaries of single counties, although their areas do not in most cases provide a good basis for integrated metropolitan government since they also cover wide rural tracts and the main built-up areas are rarely located at the centre of their territories. Hybrid forms of government have been



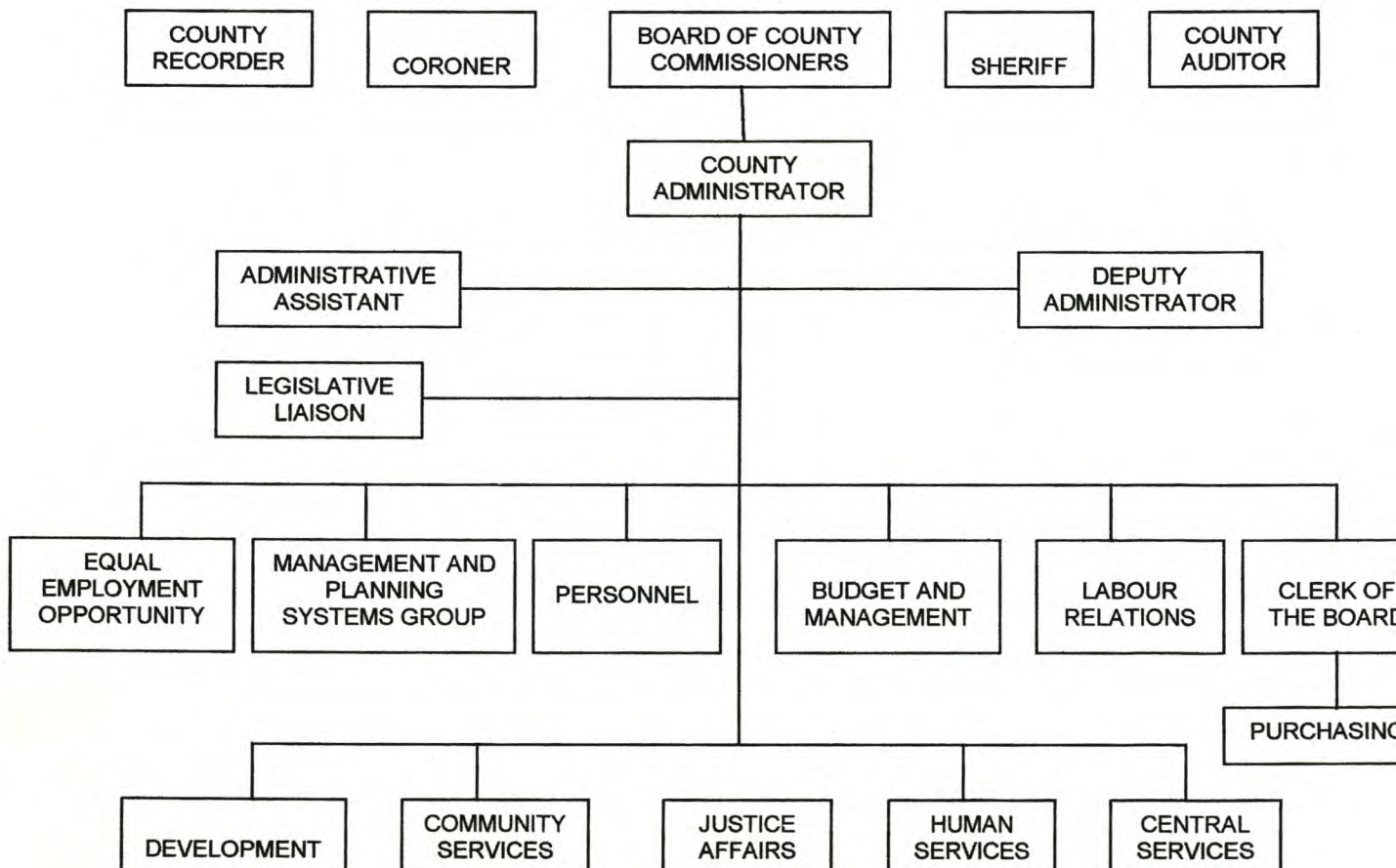
developed to meet particular administrative problems, in particular, city-counties and areas with county offices and governments organised on a regional basis, some of which are classified as 'county type areas'.

The extreme variation in size and population has led to variation in the structure of county government. Most smaller counties, especially in rural areas, have retained the traditional form of county government. Under this form, the county is supervised by a small number of commissioners, usually elected at large. Collectively, the commissioners legislate the county, setting rules for the administration of county agencies (Keller & Perry, 1991 : 36).

Glick (1989 : 3) adds that a county usually comprises two or more townships and several villages. In most counties, one town or city is designated as the county seat where the government offices are located and where the board of commissioners meet.

Figure 6.4 illustrates the structure of a typical traditional county (Keller & Perry, 1991 : 37).

**Figure 6.4 : Structure of a traditional county**





County boards are usually of two forms. The "commission form" consists of members elected at large by county voters, and the "supervisor form" which is composed of a large number of representatives chosen from townships, cities or districts within the county (Ferguson & McHenry, 1971 : 744-745). The growth of metropolitan areas and increasing fragmentation of local government within these areas has led some to call for decentralised reforms in county government (Keller & Perry, 1991 : 38).

Turning to the decentralised reforms, Zimmerman (1980 : 50) writes that each metropolitan re-organisation in the United States of America approved by the citizens since 1947 has involved the county, and it is evident that there is less political opposition to the modernisation of county government than to a proposal for the creation of a new general-purpose upper tier local authority. The county has the most potential as a metropolitan government in the numerous single-county metropolitan areas.

A county government with sufficient powers and resources to serve as an effective area-wide government can be established either by assigning additional powers to it incrementally or by adopting a home rule charter converting the county into a metropolitan government. Los Angeles is a good example of the incremental approach and Dade County, Florida, is the only example of the latter approach (Zimmerman, 1980 : 50).

Zimmerman (1980 : 50-51) adds that Los Angeles County has provided contract services to municipalities since 1907, and its provision of services to unincorporated areas obviated the need for incorporation to obtain such services in a local area. The county has entered into contracts with numerous municipalities for the provision of all their services. Most observers have concluded that the two-tier system in Los Angeles County has worked well and enables citizens to obtain many high-quality services at lower cost.

With regard to the Dade County in Florida, a two-tier system of local government was adopted through a home rule charter which authorises the Board of County Commissioners to set minimum standards for the performance of certain functions



in respect of all the constituent local jurisdictions in its area, and also to be solely responsible for certain county-wide functions (Norris, 1997 : 121). Thus, the Dade County only consolidated selected services. Existing local authorities continued to provide many of the services while transferring several to the county or upper tier. Researchers call the two-tier system a "federated" form of metropolitan government (Keller & Perry, 1991 : 48). Although described as a two-tier structure, the Dade County is a single-tier structure in the unincorporated areas where the county is the only local authority (Zimmerman, 1980 : 52).

Three-tier local structures have been adopted in the County of Portland, Oregon by a vote of the citizens in 1978, that is, a home rule charter, and in the County of Minneapolis, Minnesota by an Act of the state legislature in 1969, that is, a special or general charter. In both cases, however, the upper tier, that is, the county, has limited area-wide functions and authority (Norris, 1997 : 121). In other words, the three-tier local political structures are based on the federal model and conform with the objectives and values of decentralisation.

In summary, counties usually comprise a number of municipalities, towns, townships and villages and are run by an elected Board of Commissioners. Counties are representative general-purpose local authorities covering predominantly rural areas within states.

Finally, it can be stated that in the instances whereby the decentralised reforms in the United States of America have resulted in the implementation of more than one tier of local government, either incrementally or by the adoption of a charter, the county has been accepted as the upper tier authority. With regard to the provision of functions or services, the counties have either entered into contracts with the lower tier authorities, that is, voluntary transfer of functions, or the counties provide limited area or county-wide services, which conforms with the objectives and values of decentralisation.

#### **6.4.2.2 Municipalities**

Municipalities are mostly incorporated by charter at the request of their



communities. Areas with sufficient population and density may be allowed municipal status in accordance with a procedure which usually involves voter choice. If small they may be called villages, towns or townships. In some western states they may possess the title of 'borough'. The larger units are usually termed cities (Norton, 1994 : 403). Sometimes the term "city" applies to all municipalities, but elsewhere it refers only to larger ones. When used in the latter sense, smaller units are referred to as villages, towns, and boroughs. Whichever term is used or preferred, the units resemble one another in status, powers and functions (Ferguson & McHenry, 1971 : 747). City governments are chartered by states, and their charters detail the objectives and powers of municipal government (Glick, 1989 : 2).

According to Keller & Perry (1991 : 39) municipalities are general-purpose authorities which is the joint product of two movements at the turn of the century. On the one hand, demands were made for public ownership of utilities, schools, health services as well as well-zoned housing reforms. On the other hand, the states assigned most of the costly new public services to the central city. The unlikely alliance packed the service agenda of central cities, increasing the municipal tax burden, while suburban and rural taxes remained relatively low. White, black and other minority city residents who were disproportionately affluent moved to the suburbs to escape taxes and paying for services they did not use or prefer. Many municipal governments became increasingly unable to pay for constitutionally required services.

Turning to large city or metropolitan government, Sharpe (1995 : 17) writes that in the United States of America they are usually created simply by extending the boundary of the existing but underbounded core city authority to cover whatever was deemed to be the real extent of the metropolis. New York City, for example, was created in this manner and it has a unitary structure of government.

The majority of the limited local government political structural reforms implemented in the United States of America have been by way of city-county consolidation or amalgamation whereby the city and county governments effectively become one, which have been achieved by way of public referenda, that is, voter approval (Norris, 1997 : 121).



Thus, municipalities or cities in the United States of America are chartered by their respective state governments. They are representative general-purpose institutions which are found in urban areas. Further, a number of municipality/city-county consolidations have been implemented after the opinion of the voters was gauged.

#### **6.4.2.3 Towns, Townships and Villages**

Towns and townships exist in less than half of the fifty states, all of which are located in the eastern and north-central part of the country and are, on the whole, rural sparsely populated units of local government. Towns and townships are subdivisions of counties whose boundaries were originally marked out on the map by county surveyors for road building and maintenance. They provide such services as library, sewage treatment and disposal, water supply, maintenance of roads and public welfare services (Norton, 1994 : 402 and Humes & Martin, 1969 : 361).

The political structures of villages and towns resemble those of municipalities or cities. The chief executive, known as a 'president', 'mayor', or 'burgess', is nearly always popularly elected. The legislative body, called 'council' or 'board of trustees', is usually made up of members chosen at large by popular vote. Other municipal officers also commonly elected, are a clerk or secretary, treasurer, street commissioner, attorney or solicitor, and marshall. County and township functions may also be carried out within these units either by the municipality itself or by county and township officers (Ferguson & McHenry, 1971 : 752).

In some parts of America, especially New England, towns have always been the hallmark of governance. In fact, the town meeting is often cited as the *sine qua non* of United States democracy and the name is often used by candidates and organisations who want popular involvement. The town is a small rural area ruled by meetings of the voters. Policy is decided by votes of the citizens attending the meetings. Elected officials implement the decisions. Similar to the townships, towns have limited jurisdiction (Keller & Perry, 1991 : 44). The town meeting, which has existed for over two centuries, is often cited as the purest form of direct democracy, in which the governmental power is not delegated but is exercised directly by the people (Glick, 1989 : 4).



Therefore, towns, townships and villages are local institutions which are too small to qualify as municipalities. They are chartered representative general-purpose local authorities which are predominantly encountered in rural areas with sparse populations.

#### **6.4.2.4 Special Districts**

Special districts are jurisdictions created to provide a single service, such as, fire protection, or occasionally a larger but still limited range of services to citizens. Special districts are usually governed by a state-appointed body comprising representatives of the municipal councils of the constituent local authorities. However, the special-purpose school boards are composed of representatives directly elected by popular vote. A disadvantage of the proliferation of these units stems from fragmentation of control over policy and the difficulties citizens encounter in locating responsible persons who can resolve their problems with regard to the services provided (Bowen, 1980 : 233-234 and Gildenhuys, 1991 : 128).

Norton (1994 : 403), in concurring, adds that special districts are set up to provide one or two services, sometimes by state law, sometimes by constituent local authorities who have agreed to co-operate in respect of a specific service and sometimes as a result of private petitions and meetings leading to approval by an authorised body, frequently the court. Wright (1995 : 114) states that in addition to those for schools there are districts for fire protection, conservation of natural resources, parks and recreation, water, sewerage, drainage, irrigation, libraries, school buildings, mosquito abatement, housing, community development, ports and other purposes. Hambleton (1978 : 90) writes that a loose parallel can be drawn with the British health and water authorities which, instead of being elected, are appointed by the central government and have narrower terms of reference than local authorities.

According to Keller & Perry (1991 : 45) one reason for using the special district is its political autonomy. A district created under state law to provide only a single service frees service provision from direct fiscal or political attachment to the old



municipality or county. This relative freedom from old political ties has made the special district attractive to reformers and taxpayers alike. The rapid increase in this form of government has had negative consequences, such as, increasing the fragmentation of local governing authority in local areas. The fragmentation has resulted in decidedly uneven service delivery packages and costs. Blair (1964 : 56) adds that some progress has been made in reducing the number of special districts through consolidation as well as mergers of adjacent municipalities and small counties. Proposals for jointures other than school districts, however, have met with little success and there is no real reason for optimism concerning further reduction through this process.

In summary, there are four forms of local institutions in the United States of America, namely, counties, municipalities, towns, townships or villages and special districts, the former three of which are representative general-purpose authorities and the latter mostly non-representative single-purpose authorities, that is with the exception of school boards or districts which are directly elected.

Local government in the United States of America does not comprise tiers in the style of Britain. Each local institution obtains its autonomy or independence through various charters approved by the states in which they are situated.

### **6.4.3 EVALUATION OF DECENTRALISED REFORM INITIATIVES**

Early reformers favoured the creation of a single local government for each metropolitan area by authorising the central city to annex contiguous land as it became urbanised or by consolidating all local governments, that is, a single or unitary tier of local government. Other reformers, recognising the seriousness of area-wide problems, the values and objectives of decentralisation and the practical political obstacles to the formation of a single local government for an area, have proposed the development of a two-tier system, with the county, a multi-functional metropolitan council, or a metropolitan special district occupying the upper tier, with the smaller local units occupying the lower tier to deal with local interests and needs. Supporters of the co-operative or ecumenical approach reject the contention that the poly-nucleated system is incapable of solving area-wide problems.



Ecumenicists maintain that these problems can be solved by inter-local co-operation (Zimmerman, 1980 : 45).

Keller & Perry (1991 : 47) add that with the increasing cost of local government, the uneven distribution of resources within metropolitan areas, and the effects of the paradox of poverty in the face of demands for expensive public programmes, a group of reformers advocate a radical restructuring of local government, namely, the consolidation of all local units into a single-tier of government. Consolidation usually occurs among the traditional units of local government, that is, counties, cities, villages, towns and townships, and does not include special districts. Norris (1997 : 121) writes that in spite of the problems facing the urban areas in the United States of America, most attempts at consolidation of local governments were unsuccessful primarily due to the American population's belief that local government must be close to the people, thereby affording them the opportunity to participate in or influence the decision-making process.

Gunlicks (1991 : 86-87) in reiterating the foregoing, adds that a wide variety of proposals for reform have been made over the last decades, the oldest and most persistent of which is that espoused by the consolidationist school. Over the years, the arguments of the consolidationists have met with only limited success since 1945, city-county consolidation has been achieved in fewer than ten cases, that is, single tier structure. Since the mid-1960's the consolidationist school has been confronted by a number of contrasting proposals, one of the most important of which is the demand for neighbourhood government and community control. These advocates of decentralisation, who were most prominent in the 1960's and early 1970's, did not always agree among themselves in their analyses and reform proposals, which ranged from demands for virtual neighbourhood autonomy to simple appeals for institutional recognition of the diversity of interests that exist in metropolitan centres.

Gunlicks (1991 : 88) continues that on the other hand there are the poly-centrists who promote the virtues of the existing fragmented system of local government and argue against the establishment of a central, general-purpose metropolitan government. They believe in *ad hoc*, bargained approaches to inter-local problems



and espouse the market model of municipal services. The public choice approach focuses on citizen preferences for public goods and services, as citizen demands can be better indicated in smaller local institutions, and in institutions undertaking fewer functions.

In concluding, Norris (1997 : 121) writes that the local government reform initiatives have had limited success in the United States of America for the following reasons:

- the state constitutions contain numerous provisions guaranteeing the status of local governments;
- the political tradition of state governments not to meddle into the affairs of local governments;
- the local government ideology of the population that the closer a government is to the citizens, the more likely it will be to serve them well; and
- the wide belief of the population that their local government ought to be autonomous.

In concurring, Cameron (1999 : 16) adds that the failure of the reform initiatives in the United States of America has been the antipathy of the populace toward big government in that smaller local governments are seen as an acceptable ideological alternative through which citizens can participate in the governing of local affairs. It is also due to the determination of local communities to control the quality of their neighbourhoods through the provision of local services, such as zoning and police protection.

Thus, it can be stated that the objectives and values of decentralisation are important to the American populace, particularly in keeping government close to the people.

## **6.5 LOCAL FUNCTIONS**

The most visible activities of local government in the United States of America are those relating to the provision of services. The services function consumes most



local government expenditure and occupies most local government employees. It tends to dominate theories of local government to form the main basis upon which effectiveness of government is evaluated. The functions provided by the various forms of local institutions in the United States of America can be grouped into five broad categories, namely, protection services, environmental services, personal services, cultural and recreational services and trading operations (Barlow, 1991 : 3-4).

Local authorities are responsible for the total expenditure in respect of the public fire service, seventy five percent on policing and sixty eight percent on education. A substantial proportion is also spent on sanitation, parks and recreation, airports, parking control and libraries. The local government workforce for housing and urban renewal work at the end of the 1980's was four times larger than that of the states. Arrangements vary a great deal at state level, and in more than ten cases there is no dominant provider of highways, health and hospital, police, sewerage, parks and library services (Norton, 1994 : 409).

The role of counties in rural areas has increased since the 1960's, particularly in preventative medicine, fire protection, social services and vocational training. In 1988 health and hospitals were the most expensive liability in the counties, taking up sixteen percent of spending as against 8,4 percent in the cities. This was followed by public welfare at 14,5 percent in the counties, as against 4,6 percent in the cities. Highways was also proportionately a more expensive commitment for the counties at eight percent against the cities' 6,2 percent (Norton, 1994 : 410).

Electricity supply and policing lead the list of city services at 9,2 and nine percent of expenditure, county spending here being nil and 5,3 percent of budgets respectively. Sewerage and sanitation also stand high in the cities at 8,5 percent, followed by gas supply at 5,7 percent, fire protection at 4,7 percent, housing and community development at 3,8 percent, parks and recreation at 3,7 percent and transit systems at 2,4 percent. The heavy county expenditures on works and police are mainly explained by responsibilities in suburbs which have not been incorporated into city government (U.S. Bureau of the Census, 1991, Table 472 in Norton, 1994 : 410). Table 6.3 depicts the local governments which provide the main functions in the United States of America (Norton, 1994 : 410-412).



**Table 6.3 : Local Service Providers**

FUNCTIONS	PROVIDER
Town and County Planning and Development Housing and Urban Renewal Highways and Other Roads Transport Education and Training Cultural Activities Libraries and Museums Recreation Health and Social Welfare Police Fire Protection Development of Local Economy & Employment Public Utilities Conservation Cemeteries and Crematoria	Municipalities Counties, Cities and Special Districts Federal, State and Local Governments Cities States and Special Districts Local Governments ( <i>ad hoc</i> /sporadic basis) Local Governments and Special Districts Cities and Counties Counties, Municipalities and Special Districts Cities and Counties Cities, Counties and Special Districts Cities Local Governments and Special Districts Special Districts Local Governments

Note: Municipalities = Cities, towns or villages  
 Local Governments = Counties, cities, towns and villages

Hampton & Bowman (1983 : 196) write that the functions entrusted to local government are affected by the extent to which local authorities are either dominant in the provision of local services, or share responsibility in a pluralist manner. In the United States of America there is often a partnership between local citizen's groups, local industry and commerce, and local government in the redevelopment of urban areas or in other social and commercial enterprises, that is, public-private partnerships.

The private provision of local government services is long established in the United States of America. Privatisation through contracting was encouraged as long ago as 1955 when President Eisenhower supported the policy of the Federal Government to make use of products or services supplied by the private sector. Contracting grew apace across a widening range of government services, particularly during the 1980's. Although Britain has seen a number of privatisation initiatives in the area of local government, particularly through the use of compulsory competitive tendering to deliver services, it is only recently that attention is being paid to contracting services previously immune from government policy. These services are chiefly in the areas of social and welfare services and the use of private companies in providing public utilities (Common, 1994 : 379).

Dilger *et al* (1997 : 22) add that the number of privatised services in the cities of the United States of America suggest that privatisation has made a significant impact as only three of the sixty six largest cities had not privatised any city services. The ten most privatised services in America's sixty six largest cities as at 1995 were vehicle towing, solid waste collection, building security, street repairs, street lighting



and signals, drug and alcohol treatment centres, employment and training and legal services.

Thus, the four forms of local institutions in the United States of America perform different functions, that is, there is a division of dual functions. The functions performed by the various local institutions can also be divided into five broad categories, namely, protection, environmental, personal, cultural and recreational and trading services. The majority of local government spending is devoted to fire protection, policing and education.

It can be stated that the counties, cities or municipalities and towns provide a wide range of functions to their communities, whilst the special districts each provide one or two functions which spans over a broad range of functions.

Finally, it can be stated that local institutions have privatised numerous services, particularly the larger cities, either by way of contracting out or by entering into public-private partnerships for the provision of facilities and services.

## **6.6 LOCAL FINANCE**

In this section the following sources of local government finance in the United States of America will be addressed, namely, local taxes, grants and loans.

### **6.6.1 LOCAL TAXES**

In this subsection the following forms of local taxes will be addressed, namely, property tax, local sales tax, local income tax and public enterprise earnings.

#### **6.6.1.1 Property Tax**

Property tax is the most important local tax which originated as a state tax and has gradually been transferred to local authorities. There have been pressures to make it entirely a local government tax on the grounds that it is best administered at local level (Norton, 1994 : 414).



In agreeing, Gortner (1981 : 353) adds that local governments raise the largest single portion of their revenue through the property tax. Property cannot be shifted between jurisdictions, so there is little chance of avoiding the tax. The property tax is, however, not a flexible source of revenue in that limitations are placed on the percentage that may be raised from properties. Norris (1997 : 119) states that on average, the property tax makes up about thirty percent of local government general revenue and about seventy five percent of the overall local government tax revenue, which has more or less remained constant from 1985 to 1996, *vide* Table 6.4.

Norton (1994 : 414) adds that property tax varies from state to state but usually takes two forms, namely, real property tax levied on the assessed value of taxable land and improvements thereon, and personal property tax levied on the assessed value of taxable personal property, such as furniture, business inventories, equipment, vehicles and animals, and personal property such as money, stocks and shares and other non-tangible properties.

Table 6.4 shows that the importance of the property tax to local governments varies according to the form of government unit as at 1985 (Gunlicks, 1991 : 97).

**Table 6.4 : Property taxes as a percentage of revenue by form of local government**

	<b>All Local Governments</b>	<b>Counties</b>	<b>Munici- palities</b>	<b>School Districts</b>	<b>Town- ships</b>	<b>Special Districts</b>
General Revenue	28.2%	27.1%	20.5%	36.4%	52.6%	10.4%
Total Tax Revenue	74.2	75.1	49.2	97.3	93.2	74.0

The rate which may be raised by cities and counties through direct taxation is frequently circumscribed by the states. A limit is often placed on receipts from property tax by preventing local government units from raising from a property more than a specified percentage of its value as assessed for taxation purposes. In recent years some states have compounded these restrictions by placing limits on the assessment value of property (Chandler, 1993 : 144).



#### **6.6.1.2 Local Sales Tax**

According to Norton (1994 : 415) and Rassel (1995 : 141) local sales tax is the second most important form of local tax. It is generally levied on retail sales, but in Hawaii, Louisiana and Mississippi also on wholesale transactions. This form of local revenue is available to local governments in more than half of the states in America.

The collection costs for sales tax are low. Local authorities usually make use of merchants to collect the sales tax when a transaction is made. The merchant remits the tax to the local authority and is paid a small fee. The sales tax burden for any citizen is spread out over time and so its impact may not be as visible to the individual (Rassel, 1995 : 146).

Five percent of local government revenues is derived from local sales tax (Berman, 1999 : 2).

#### **6.6.1.3 Local Income Tax**

Local income tax can be levied by local authorities in thirteen states. The levels of federal and state income taxes have discouraged its use as an additional deduction on payrolls because of the growth of other charges and the effects of inflation. There is no deduction in personal allowances. It is, in general, simply a percentage of earnings, although in some cases investment income is included (Norton, 1994 : 415).

Two percent of local government revenues comes from individual local income tax, which tax is allowed by a small number of states (Berman, 1999 : 2).

#### **6.6.1.4 Public Enterprise Earnings**

Local governments in the United States of America can raise considerable sums through local enterprise by selling licences and franchises for the supply of utilities to their communities. They may in some cases own local gas and electricity



services. In addition to these necessities, money may also be raised by awarding franchises to cable television companies. The states can, however, limit the revenue raised from these sources as effectively as they can limit property tax, since they usually establish some form of state commission to arbitrate between a city government and the local utility companies (Chandler, 1993 : 144-145).

User fees and charges and public enterprise earnings make up some fourteen percent of local government revenues (Berman, 1999 : 2).

According to Norton (1994 : 415) there are three types of local business taxes, namely:

- Taxes on franchises of public utilities, justified by the monopoly privileges which such franchises confer and costs to the community as a whole resulting from business operations.
- Fees and other payments to meet the costs of regulator activities and to enforce them, for example, air pollution.
- Taxes applied selectively to commercial activities where the return is significant in relation to administrative costs.

In concluding, Rassel (1995 : 143) writes that user fees and charges and public enterprises are an important alternative to property taxes. Local authorities have increased the use of charges and fees for providing services. A number of cities in the United States of America operate electrical or gas utilities. Local authorities in general, charge fees for water supply, solid waste collection and disposal, electric and gas utilities, toll roads, public transportation, parking areas and airports.

Thus, the property tax still is the most important source of local tax, followed by local sales tax and income tax. It can be stated that user fees and charges and public enterprises is an ever expanding or increasing source of local revenue in the United States of America.



### 6.6.2 GRANTS

Grants are an important source of revenue and have increased as a percentage of income over the years. Before the New Deal of President Roosevelt in 1933, states received almost no aid from Federal Government and provided in turn little support to local governments. This system of dual federalism was considerably eroded by the 1960's when the Great Society Initiative of President Johnson transferred substantial grants to both state and local governments (Chandler, 1993 : 145).

Bowen (1980 : 236) is of the opinion that the major source of change in municipal governance in the United States of America has been exogenous, involving both an increase in the amount of federal grants provided to local governments and the development of new mechanisms for allocating these grants. However, some of the mechanisms for allocating federal revenues among sub-national governments have limited autonomy and the exercise of power by local officials, such that the continued vitality of general-purpose government at the local level has been threatened.

Intergovernmental transfers from the federal and state governments represent a growing proportion of municipal revenues. Due to intergovernmental revenues, school districts are less dependent on the property tax than in previous years, although it still represents more than one-third of their general revenue. In spite of the substantial revenues raised by local governments, it is clear that they are dependent in varying degrees on revenue sources other than their own (Gunlicks, 1991 : 97).

As at 1990, counties depended on intergovernmental grants for thirty eight percent of their revenue, cities or municipalities for thirty two percent, school districts for fifty eight percent and special districts for thirty four percent (Wright, 1995 : 113).

The subsections to follow will deal with some of the types of intergovernmental transfers in the United States of America, namely, categorical and block grants.



### 6.6.2.1 Categorical Grant

The most common type of grant, and the one with the most restrictions, is the categorical grant. This type of grant is directed at specific, narrowly defined activities and is distributed by a legislatively or administratively prescribed formula or at the discretion of the administering bureaucracy (Gunlicks, 1991 : 95). A categorical grant programme makes money available for a specific programme, activity or facility. At state level the major grant programme relates to support for elementary and secondary education. At federal level, support to both state and local governments has historically been aimed at inducing them to increase the level of services in specified areas (Gortner, 1981 : 359).

Bowen (1980 : 236) adds that categorical grants are given for purposes mandated by Congress and monitored by the federal bureaucracy. While the rigidity of these mandates can be exaggerated and federal officials sometimes complain that recipients do not use the money as intended by federal agencies, the grants nonetheless represent a restriction on local officials' freedom of action.

The manner in which categorical grants are allocated among potential recipients has led to a marked change in local political processes. Rather than allocating monies for a specified purpose in specific amounts to specified states, local governments, or private organisations, grant programmes have called for a competition for funds among potential recipients which is resolved in the federal bureaucracy. Congress passes programmes and appropriates monetary totals, and the Federal Governments develop guidelines. Prospective recipients then must develop their own programmes within these guidelines and apply for funds (Bowen, 1980 : 238).

Thus, it may be concluded that the use of categorical grants to fund specific local government projects is common in the United States of America. Furthermore, categorical grants are used to fund a wide variety of projects and activities or facilities for which local authorities are required to submit programmes to the Federal Government.



### 6.6.2.2 Block Grant

A second type of grant is known as a block grant which is given on the basis of statutory formulae for more general, more broadly defined activities (Gunlicks, 1991 : 95). Block grants represent the imposing of federal policy priorities on local government in much the same manner as categorical grants, but unlike categorical grant programmes they leave the choice of programmes within policy areas to local governments (Bowen, 1980 : 239).

Gortner (1981 : 362) adds that the block grant rules specify what the money cannot be spent for within the general guidelines of the problem area, and allow the local government either to continue prior programmes or to spend the money for new projects. Thus, while some limitations are maintained, local governments are given freedom to establish priorities within the broad limits of the programme.

Most of the block grants came into being by merging previously separate categorical grants (Gortner, 1981 : 362 and Hambleton, 1978 : 99). The basic features of an American block grant are that it/s:

- authorises federal aid for a wide range of activities within a broad functional area;
- gives recipient jurisdictions fairly wide discretion in identifying problems and designing programmes to deal with them;
- administrative and fiscal reporting requirements are designed to keep federal intrusiveness to a minimum, whilst recognising the need to ensure that broad national goals are accomplished;
- is distributed by formula which reduces grantmanship and provides some sense of fiscal certainty for grantees; and
- eligibility provision is fairly specific, relatively restrictive and tends to favour general-purpose governments (Hambleton, 1978 : 99).

Therefore, it can be stated that block grants are allocated to local authorities for more broadly defined activities and are calculated in accordance with predetermined statutory formulae.



In summary, it can be stated that intergovernmental transfers from the federal and state governments in the form of categorical and block grants are a major source of revenue for the various forms of local government.

Finally, it can be stated that of the two types of intergovernmental transfers, the categorical grant is the most restrictive in terms of the purpose for which it may be utilised, which in turn curtails local freedom of choice. Block grants in turn are allocated for more general activities or programmes, primarily to promote the policy priorities of the Federal Government.

### **6.6.3 LOANS**

In the United States of America borrowing is often heavy, not infrequently because a local authority wishes to spend beyond the maximum taxing levels allowed by the state in addition to financing specific capital projects. A variety of bond types are issued, particularly general obligation bonds against future tax revenue, mortgage bonds against utilities which serve as securities, and revenue bonds secured by a pledge of revenue from a self-liquidating project such as a toll bridge or new electric power system (Norton, 1994 : 417).

Bowen (1980 : 240) and Chandler (1993 : 145) write that most units of local government in the United States of America, including special districts, fund their capital expenditure through borrowing, usually secured by the issue of local authority bonds which pay to the holders a fixed rate of interest. Chandler (1993 : 145) adds that most states place limits on the money so to be raised and some may even require capital borrowing to be approved by the citizens through the holding of

a local referendum. Many larger cities and counties are also obliged to borrow money on a short-term basis to fund deficits in their revenue budgets.

Thus, it can be concluded that it is common practice for local institutions in America to raise loans for, in particular, capital projects by way of issuing bonds at fixed interest rates, the limits of which are restricted and controlled by the state governments.



## **6.7 EVALUATION OF DECENTRALISED REFORMS**

In this section the decentralisation reforms will be evaluated pertaining to the criteria for comparison identified for the study in respect of the United States of America.

### **6.7.1 POLITICAL SYSTEMS**

Federalism is a system of government in which legal sovereignty is shared between central and other spheres of government, for example, state and local. Each government, central and state has constitutional authority to make some decisions independently of the other, even though in practice there is marked interdependence between the governmental levels or spheres. It, however, rarely emerges from a voluntary compact between previously autonomous states. This was indeed the procedure in the United States when the representatives of thirteen states met in Philadelphia in 1787 to formulate the Constitution. Similar conventions, profoundly influenced by the American experience took place in Canada in 1867 and Australia in 1901 (Hague & Harrop, 1987 : 169-171). Federalism has proven to be a significant element in situations in which sheer size, involving the separation and divergence of communities has been the dominating feature (Mahler, 1995 : 31).

Gunlicks (1991 : 77) writes that according to the Constitution, the United States of America is a federation consisting of a national and state governments, the latter of which are responsible for all local governments. The national and state governments are characterised by a separation of powers among executive, legislative and judicial branches, with the legislative divided between two more or less equal bodies.

Developed countries, such as the United States of America, are basically capitalist in orientation and are a product of an early transition to societies based on market relations. The creation of a liberal political order against feudal privilege and absolute monarchy was a key stage in the establishment of a market society, to be later followed by democratisation, that is, liberal democracies (Hague & Harrop, 1987 : 48).



Turning to intergovernmental relations, Chandler (1993 : 150) writes that restraints on local government come not from the Federal Government but from the states. Legally, local governments are created *via* the constitution of the state or specific or general state legislation. Home rule charters give the larger municipalities or cities considerable autonomy and powers over their activities and are more restrictive for smaller communities. However, the states have become an important source of local funding by providing a large array of categorical grants, which in turn, erodes the ability of local authorities to raise their own funds.

Therefore, it can be stated that there is a strong British influence in the United States of America which has played an important role in the patterns and development of local institutions. America is a developed country with a liberal democratic political order in which the objectives and values of decentralisation and, in particular, accountability and responsiveness, democracy and public participation are of paramount importance.

It can be argued that due to the very nature of a federal system, the Federal Government is required to devolve and/or delegate powers to the individual constituent states or territories in terms of the provisions of the Constitution pertaining to the separation of powers.

Finally, local institutions are established either through the charter provisions in the constitutions or by specific or general legislation of the states in which they are situated. The intergovernmental relations are influenced by the type of charter which is adopted, with generally the larger cities being granted significant autonomy and freedom over their own affairs whilst smaller or less populous communities are given less independent powers.

## **6.7.2 LOCAL POLITICAL STRUCTURE**

The structures of local government in the United States of America evolved over time as political reactions to their context. Structural and social reform, demographic shifts, and fiscal crises are examples of contextual changes, which in turn, caused significant transformations in local government (Keller & Perry, 1991



: 31). There are in excess of eighty six thousand local authorities, the forms of which basically are counties, municipalities, towns, townships or villages as well as special districts, for example, school districts, the latter of which have been established generally to carry out one or two functions (Wright, 1995 : 100). The sphere of local government does not comprise tiers as found in countries such as Britain and France in that there are few two- or three-tier structures which are only encountered in certain states.

In the United States of America, local authorities are established by the states in which they are situated and, as such, depend on the constitutions and laws of the respective states for their privileges, rights and status. Thus, in theory a state can abolish and supersede a local authority, but in practice politics places limits on this possibility (Norton, 1994 : 395). In concurring, Gunlicks (1991 : 81) writes that local authorities are established through charters which are approved by their states, and in theory, but not in political practice, can be disbanded or have their boundaries amended by state legislature.

Keller & Weinstein (1991 : 62) add that local authorities can achieve a significant degree of control over their affairs *via* a charter provision in the state constitution. Home rule charters, for example, give local authorities autonomy from the state legislature by permitting them to exercise independent authority and power over their own affairs without the need for state enabling legislation.

Local government structural reform initiatives have met with limited success in the United States of America due to *inter alia* the state constitutions containing numerous provisions guaranteeing the rights and status of local authorities, the political tradition of the state governments not to interfere in their affairs and the ideology and belief of the American populace that local government must be autonomous and close to the people (Norris, 1997 : 121).

It can be concluded that in the United States of America there are three spheres of government, namely, national or federal, state and local, and that the latter level comprises four forms. In certain of the states there are two- and three-tier structures of local government in which cases the county forms the upper tier and



generally performs functions of county-wide significance, whilst the local authorities on the lower tier/s continue to perform a wide range of functions best suited to be carried out close to the local populace.

It can be stated that counties, municipalities and towns and villages are representative general-purpose local government institutions while the special districts, that is, excluding the school districts, are mostly non-representative single-purpose local institutions. School districts are predominantly representative single-purpose local institutions.

It can also be stated that local authorities enjoy considerable authority and power over their own activities due to the charter provision in the constitution of their respective states and the political tradition of non-interference of the state governments as well as the ideology of the American populace that government should be close to the people, that is, the decentralisation of authority and power.

Finally, local government forms a strong sphere of government in the United States of America in that it enjoys significant autonomy, is responsive and accountable to the communities, is relatively independent financially, is important in terms of areal and geographical significance, particularly the large cities and has considerable influence in terms of their charters, powers and functions at the higher sphere of government.

### **6.7.3 LOCAL FUNCTIONS**

The functions provided by the various forms of local institutions in the United States of America can be divided into the following broad categories, namely, protection, environmental, personal, cultural and recreational services and trading operations (Barlow, 1991 : 4). The majority of local government expenditure is devoted to fire protection, policing and education.

In the United States of America the functions entrusted to local authorities are affected by the extent to which they are provided by the local authority, that is, the sole or shared provider of functions, the latter of which is achieved by way of



entering into public-private partnerships with local citizen groups or local commerce and industry (Hampton & Bowman, 1983 : 196).

Flowing from the foregoing, the privatisation of local government services is long established in the United States of America. Privatisation through contracting out grew apace across a widening range of services, particularly during the 1980's. Many of the larger cities have privatised a wide variety of services, such as, solid waste collection, street repairs, street lighting, drug and alcohol treatment centres and vehicle towing (Common, 1994 : 379 and Dilger *et al*, 1997 : 22).

It can, therefore, be stated that in the United States of America the functions carried out by local authorities can be placed into a number of broad categories and that the various forms of local institutions provide different sets of services to the communities depending on their capacity or size. Further, a large number of special districts have been established to provide a wide variety of specific services in areas which usually cross the boundaries of a number of general-purpose local authorities, the most prevalent of which are the school boards or districts.

Finally, it can be stated that privatisation has taken root in American local government in the form of either contracting out or by entering into private-public partnerships with various types of organisations for the provision of facilities and services.

#### **6.7.4 LOCAL FINANCE**

The three spheres of government in the United States of America tend to rely on one of the three forms of taxes for most of its revenue. The Federal Government receives over seventy percent of its revenue from income taxes, state governments obtain about forty percent of their revenue from sales taxes, and local governments obtain some thirty percent of their general revenue from property taxes (Wright, 1995 : 111).

The second most important form of local tax is sales tax followed by income or personal tax. User fees and charges and public enterprise earnings have gained momentum in recent years as a source of local revenue.



Local governments have become increasingly dependent on grants from the federal and state governments, that is, intergovernmental grants, so much so, that it is almost no longer meaningful to talk of independent or autonomous local governments. Parallel to federal grants, there has been a rapid increase in state grants for local governments. Like every other developed country, as the range of local government services demanded by the public has increased, the higher levels of government have stepped in, either directly or through the provision of grants (McKay, 1983 : 133-135).

Norton (1994 : 407) writes that the states continue to play a crucial role in the well-being of local governments by bearing a significant proportion of the cost of local operations through categorical grants. Keller & Weinstein (1991 : 63) add that the Federal Government exerts financial control through a number of federal spending programmes that condition the receipt of grants on local government meeting certain federal standards.

Therefore, it can be stated that the major sources of revenue for local governments in the United States of America are local taxes of which the property tax is the largest source, as well as intergovernmental grants from the federal and predominantly state governments by way of categorical and block grants.

It can be argued that when local governments become too dependent on finances from the higher spheres of government, and specifically in respect of categorical or specific grants, their autonomy and freedom of choice by way of specifications suffers as a result of tighter controls imposed on them by the higher levels of government.

## **6.8 SUMMARY**

The form, structure and "system" of local government in the United States of America varies from state to state, and even within states, which makes it exceedingly difficult to generalise about local governments in the country. The origins of local governments come from the European borough type government and the British county institutions.



Intergovernmental relations between the three spheres of government in the United States are complicated and fragmented primarily due to the fact that there are so many governmental units, that is, in excess of eighty six thousand. Local institutions are subjected to various controls by the states, primarily in respect of their finances.

Local governments in America are established through a number of charters which are approved by their states and which grant them considerable autonomy from the state legislature by permitting them to exercise independent authority and power over their own affairs without the need for enabling state legislation. There are basically four forms of local institutions in America, namely, counties, municipalities or cities, towns, townships or villages and special districts, of which school districts are the predominant.

Municipalities or cities are established or receive their corporate status through charters of which there are four kinds. Counties are established through either general or specific state legislation or the charter provisions in the constitution of their respective states. Towns, townships and villages are independent subdivisions of the counties and are also established by way of general or specific state legislation or charter provisions in the constitution of the state in which they are situated. Special districts are jurisdictions created by the states to usually provide a single service, and are either appointed by the states or elected by the public.

Counties are normally the administrative local units in the rural areas of America and most of their powers and functions are usually ceded to the municipalities or cities where these have been established. In the metropolitan areas there are various forms of local institutions in vast numbers resulting in the duplication and fragmentation of areas of jurisdiction, service delivery, which in turn leads to increased costs and confusion amongst the local populace.

The suburbanisation of the American population in the twentieth century and, in particular after the Second World War, has left many of the central cities in the metropolitan areas in dire financial straits. Local governments, especially the



central cities, have over the years become increasingly dependent on state and federal aid by way of block and categorical grants. The other main sources of local revenue are derived from property, income and sales taxes, user fees and charges and public enterprises.

Various initiatives or proposals have been put forward to reform local government in America, particularly with regard to the metropolitan areas where the fragmentation of local institutions is at its worst. These reform initiatives *inter alia* included the consolidation of units, a two-tier system with the central city or county being the umbrella body and co-operation between the various units to solve area-wide problems. The reform efforts have over the years met with limited success, which can be chiefly ascribed to the democratic, ideological and political traditions of the American populace that local government should be autonomous and close to the people.

In the ensuing chapter aspects of the decentralised reforms implemented with regard to the criteria identified for this study in respect of South Africa will be addressed.



## CHAPTER 7

### LOCAL GOVERNMENT IN SOUTH AFRICA

#### 7.1 INTRODUCTION

South Africa is a combination of the developed and the developing worlds in that it has characteristics or features of both with adapted systems of local government from its mother countries, Britain and the Netherlands, particularly England, of which it was a colony.

There are three spheres (levels) of government, namely, central, provincial and local. Elections were held on a regular basis for the White population group and from the 1960's in the various homelands in respect of the Black population groups. Since 1983 the Coloured and Indian population groups could also participate in elections in respect of their separate structures. The first truly democratic national elections were held in 1994 followed by the local elections in 1995/96 in which all the population groups could participate, that is, Black, Coloured, Indian and White. South Africa is a unitary state with elements of federalism with regard to the provisions in the **Constitution Act**, 1996 pertaining to its supremacy, bill of rights and relatively autonomous provinces.

Local government in South Africa, excluding the former so-called independent homelands, was dominated by the White minority population group until the local elections of 1995/96. It was at the local level of government where the apartheid or separate development system of the former National Party was rigidly enforced by the implementation of the laws which separated the various population groups in every sphere of life, and where the White minority group enjoyed privileges at the expense of the other communities.

The face of local government in South Africa was drastically transformed in 1993 by way of the agreements reached at the National Local Government Negotiating Forum by, *inter alia* the two dominant role players, namely, the unbanned African National Congress and the National Party which paved the way for the local



elections in 1995/96. The final phase of local government transformation process is underway with the view to implementation after the elections scheduled for November 2000.

In the ensuing sections of this chapter the historical development, local government reforms, with the emphasis on decentralisation policies and strategies, from 1961 to 1995, that is, the period from gaining independence to the first non-racial democratic local elections, as well as the decentralised reforms from 1996, will be addressed. Both periods, that is, from 1961 to 1995 (past) and from 1996 to 1999 (present) will focus on the reforms pertaining to the political system, local political structure, functions and finance. An evaluation of the decentralised reforms will thereupon be made with regard to the criteria identified for comparison for later analysis with the view to framing a model for effective local government in South Africa.

## 7.2 HISTORICAL DEVELOPMENT

The **South Africa Act, 1909**, **The Constitution of the Republic of South Africa, 1961** (Act 31 of 1961) (hereinafter referred to as the Constitution Act, 1961) and the latter's successor, the **Provincial Government Act, 1961** (Act 32 of 1961), conferred powers upon provincial councils, which have been abolished in 1986, to legislate on municipal councils, divisional councils and other local institutions. The legislation passed since 1910 has resulted in the creation of municipalities in the then four provinces, divisional councils in the Cape Province, village councils and village management boards, town boards, health committees and local boards in the then other three provinces. These bodies had varying powers, but all were corporate bodies with elected members. For the purpose of supervision these bodies fell under their respective provincial administrations (Craythorne, 1990 : 6). Despite the abolition of the provincial councils in 1986, the various ordinances and proclamations were retained including the local government or municipal ordinances.



The geographical characteristics outlining the various provinces of South Africa are reflected on Map 7.1 (Lye, 1997 : 287).

**Map 7.1 : South Africa**



Cloete (1995 : 2) writes that from 1948 the apartheid regime created separate racially based local authorities for each of the four racial groups in South Africa. The White local authorities were the most favourably endowed in terms of resources, facilities, services and business and industrial areas. The other three systems of local government were all inferior and were not viable since only some of the facilities and services could be duplicated in these areas.

Cloete (1995 : 3) continues that although in most communities local councils were elected in separate racial elections, these elected local governments did not enjoy the support of the majority of residents in their areas. Elections were boycotted by black political liberation movements and civic associations. Local government was *de facto* controlled by the White system without effective participation by the other



groups. This was also the position at national level and it became increasingly unacceptable to the black communities in South Africa.

According to Todes & Watson (1985 : 203) a major area in which the National Party intervened in local government was in relation to the administration and representation of the Coloured, Indian and African populations. In relation to the African population, the implementation of influx control, the construction of urban African housing, and the removal of African freehold rights in the towns were continual sources of friction between the Government and local authorities, particularly in those cities and towns where the level and rate of African urbanisation had been high.

Todes & Watson (1985 : 203) add that Coloured and Indian persons could, however, not be dealt with in the same manner, given the somewhat different position they held in the National Party's programme. The policy of the Nationalist Government towards the Coloured population has been one of marginalisation from White political structures and the development of their own political and economic institutions. Indian persons have, to a far greater extent, been regarded as foreigners and of less importance in terms of government political strategies. Nonetheless, there have been close parallels in terms of developing political solutions for the Coloured and Indian groups.

In terms of Section 28 of the **Group Areas Act**, 1966 (Act 36 of 1966) the legislative powers of provincial councils were extended to local legislation for management or consultative committees, the consequence of the establishment of a management or consultative committee for respectively the Coloured and Indian population groups, is that the residents of the area concerned may no longer be voters for the election of municipal councillors, but that from then on they may only vote in elections for members of these committees, that is, their franchise is restricted to a particular group area. No serious attempts were made to establish separate Coloured or Indian municipalities on a large scale as investigations showed that these areas could not be financially viable (Craythorne, 1990 : 6).



During and after the uprising in 1976, there were two developments of significance, namely, the acceptance by Parliament in June 1976 of the minority report of the Theron Commission and the setting up of the Yeld and Schlebusch Commissions in 1976 and 1977 respectively, to investigate ways of establishing independent local authorities for the Coloured population. In addition, at the end of 1976, a cabinet committee was formed under the chairmanship of P W Botha to investigate a new constitutional dispensation which would include White, Coloured and Indian persons (Todes & Watson, 1986 : 85-86).

Political instability in African urban areas after 1976 led to a number of fresh government initiatives. In 1977, community councils were introduced in these areas. All residents, including homeland citizens, could vote in council elections. The community councils reflected an unprecedented official acknowledgement of the permanence of Africans outside the homelands and the legitimacy of demands for African political representation outside the homelands. Their fragile legitimacy was compounded by their weak financial capacity and the view of many of their constituents that they were apartheid instruments aimed at diverting demands for full political participation (Heymans & White, 1991 : 5).

After 1979 reformers both inside the state and in the wider liberal communities, began to recognise that the Verwoerdian vision of parcelling South Africa up into independent ethnic states was unrealisable. It had become obvious that the Bantustans were unable to achieve either economic autonomy or political legitimacy (Cobbett *et al*, 1985 : 89-90).

Further decentralised reforms were inevitable and in 1982, the **Black Local Authorities Act**, 1982 (Act 102 of 1982) granted Black local authorities full municipal status, comparable to that of White local authorities. For this reason their creation was hailed, especially in official circles. However, the local authorities remained administratively constrained, financially weak and politically controversial (Heymans & White, 1991 : 5).

Adlem (1985 : 72) summarises the historical development of urban local politics and administration in South Africa as follows:



- the unitary nature of the South African state in time led to the development of a strong centralised government system in which local government is subordinate to the central, and more specifically the provincial governments under whose control and supervision local government activities are being carried out;
- the development of local government is further restricted due to the lack of adequate sources of revenue;
- the subordination of non-white local authorities which functioned as an extension of White local authorities not only dampened and restricted the development of non-white local authorities but also made them heavily dependent on White local authorities;
- disinterest in urban politics and administration developed with time especially between the non-white population groups, partly as a result of their subordination to White local authorities and partly due to the impersonal and colourless functions which local authorities generally undertake; and
- the implementation of the policy of separate development led to the establishment of four local government systems for respectively the White, Coloured, Indian and Black population groups.

## **7.3 LOCAL GOVERNMENT REFORMS FROM 1961 TO 1995**

In this section the decentralised reforms to local government which have taken place since South Africa gained independence from Britain on 31 May 1961 to the holding of the first truly democratic local elections in 1995/96 will be discussed in respect of the criteria identified for this dissertation, namely, political system, local political structure, functions and finance.

### **7.3.1 POLITICAL SYSTEM**

In this subsection the constitutional reforms with the emphasis on the decentralisation of the South African political system over the period 1961 to 1995 will be addressed.



In terms of the **South Africa Act**, 1909 the two former British colonial areas of Natal and the Cape of Good Hope and the two defeated Boer republics of Transvaal and Orange Free State were merged together with a number of Black societies which had already been absorbed by the White units into a unitary state called the Union of South Africa under a parliamentary system of executive power patterned on the British Westminster model. The establishment of the Republic of South Africa with effect from 31 May 1961 under the **Constitution Act**, 1961 brought about no change to the system of government which existed prior to independence (Vosloo, 1974 : 21-22).

According to Cloete (1988 : 239) the local authorities for White urban areas which were in existence prior to 31 May 1961 carried on with their activities and the four provincial authorities continued to exercise control over them.

Heymans (1988 : 35) writes that the initiative to reform the Constitution of 1961 was taken up by the Schlebusch Commission in 1977 which proposed the formation of a "President's Council" for Whites, Coloureds and Indians, which device was to be twinned with a separate council for Blacks. While the idea was abandoned, the President's Council was elevated to the status of the Government's major constitutional think-tank. Two of its reports laid the foundations for the new constitutional order which was enacted in September 1984.

Adlem (1985 : 73-74) summarises the most important findings and recommendations made by the President's Council during 1982 as follows:

- maximum devolution of power and decentralisation of administration to local authorities;
- provision must be made for greater local autonomy and that the necessary legislative powers in this regard should be delegated to local authorities; and
- that local government functions should be split into "hard" and "soft" functions, and that the "soft" functions such as housing, schools, pavements and streets should be carried out by the primary local authorities; the "hard" functions or bulk services, such as fire brigade services, sewerage, electricity and water supply and computer services, should be carried out jointly by the relevant local



authority and the services authorities for the entire area, of which there should be eight such authorities or regions in the country, that is, Regional Services Councils.

However, the devolution of powers to local government did not materialise. The central and provincial governments continued to regard local authorities as their agents.

Pertaining to the President's Council constitutional reports of 1982, Schrire (1983 : 47) states that the technocratic-planning approach is based precisely upon the exclusion of mass participation and the prevention of nation building, which may make it impossible for non-white élites to secure the support of their constituencies for an ambiguous programme of gradualism. South African politics have traditionally been based upon ethnic loyalties and hence technocratic-planning-type decentralised reforms will be widely viewed as supportive of the interests of the dominant ethnic élites.

Craythorne (1990 : 17-18) writes that South Africa in its Constitution of 1983 has retained the separation of the legislative, executive and judicial functions, although in a somewhat amended form, as the executive has become more powerful and this has diminished the importance of Parliament. **The Constitution of the Republic of South Africa, 1983 (Act 110 of 1983)** (hereinafter referred to as the Constitution Act, 1983) contained certain principles which were unique to South Africa, namely:

- the three Houses of Parliament were divided according to population groups, that is, Parliament consisted of three ethnic entities, which sometimes acted jointly on "general" affairs, and sometimes sat singly on their "own" affairs;
- the concept of "own" and "general" affairs divided the functions and services of government along ethnic lines; "own" affairs applied in declared areas and, in practice, a declared area was a group area; and
- Blacks were not represented in Parliament.



Flowing from the foregoing, it can be argued that the **Constitution Act**, 1983, in an attempt to accommodate a deeply divided society, established a consociative form of democratic government in which three of the four population groups could be represented in Parliament. It, however, concentrated more power than before in the State President which is contrary to the principle of power sharing.

The **Constitution Act**, 1983 did not enshrine the rights and status of local government. The State President had the power arbitrarily to change the status of local government from "own" to "general" affairs (Cameron, 1988 : 52). In all unitary systems of government the State President is the head of the executive and the legislative. Furthermore, in all unitary states the lower level/s of government may make and administer policy, but they do so at the pleasure of the central government.

The negotiations that led to the abandonment of apartheid, the introduction of **The Constitution of the Republic of South Africa**, 1993 (Act 200 of 1993) (hereinafter referred to as the Constitution Act, 1993), and South Africa's first national democratic election in 1994 were the result of a compromise between the National Party and the African National Congress. By the late 1980's powerful elements within the National Party government's support base recognised that White domination and apartheid were no longer tenable. In February 1990 the De Klerk Government released jailed leaders of the African National Congress, including Nelson Mandela, unbanned opposition parties, including the African National Congress, and began the long process of negotiation that would eventually lead to a new constitution (Pycroft, 1996 : 234).

Multi-party negotiations took place in 1992 and 1993 which culminated in the promulgation of the **Constitution Act**, 1993. Provision was made for three levels of government, namely central, provincial and local government. At the central level two chambers were established comprising a National Assembly and a Senate. In terms of the power-sharing arrangements, all parties which gained more than twenty seats in the National Assembly were entitled to cabinet seats in proportion to the number of seats held. Provision was also made for nine provinces in the said Constitution (Cameron, 1996 : 20).



Cameron (1996 : 20) continues that the Constitution Act, 1993 showed many of the features of federalism, such as a senate representing provincial interests, a schedule of provincial powers and a constitutional court as the final arbitrator of intergovernmental conflict. However, Parliament had extensive overriding powers over the provinces which negated some of the federal principles. The African National Congress favoured a unitarist state, while the National Party and the Inkatha Freedom Party a federalist state. The Constitution of 1993, however, did make provision for autonomous local government.

It was at local government level that the National Party managed to entrench most of the power-sharing provisions. The National Party's strategy was that minority interests, in particular those of the Whites, can be protected strongly through devolution of powers to local authorities. The major Black organisation in the country, the African National Congress, was originally committed to a centralist state, and only favoured deconcentration of powers to local government for the purposes of more effective administration. Extensive devolution was seen as a mechanism to protect White privilege and to prevent the essential redistribution needed to ameliorate inequalities caused by apartheid (Cameron, 1996 : 20).

To summarise, it can be stated that South Africa was a former British colony which inherited the unitary system of government based on the Westminster model when it gained independence in 1961. The rights and status of local government were not enshrined in the Constitution of 1961, and only the White population group could be represented in Parliament.

In an endeavour to alleviate the conflict and disintegration inherent in the various ethnic societies, the **Constitution Act**, 1983 came into being which provided for three chambers of parliament for the Coloureds, Indians and Whites. Blacks were excluded. Thus, while the unitary system of government, with a more powerful executive prevailed, it can be stated that the **Constitution Act**, 1983 contained elements of consociation. The rights and status of local government were not embedded in the said Constitution.



Turning to the non-racial interim Constitution of 1993, it can be stated that it contained features of federalism pertaining to the relatively autonomous provinces, which were, however, negated by the overriding powers of Parliament in that, for example, the conditions of service applicable to the officials of central government were also applicable to provincial officials which is a typical feature of a unitary system of government whereby decentralisation primarily takes the form of deconcentration. The **Constitution Act**, 1993, however, did make provision for relative autonomous local government. The said Constitution nevertheless prescribed the structure, functions and finance of local government.

### 7.3.2 LOCAL POLITICAL STRUCTURE

This subsection will address the structural decentralisation of local government in South Africa over the period 1961 to 1995.

In terms of the **Constitution Act**, 1961, local government was a subject devolved to the provinces. In each of the provinces there was a single-tier system of representative general-purpose local authorities for both urban and rural areas. Any territory not included within these areas fell under the direct control of the province or could be designated as the territory of a rural local authority (Humes & Martin, 1969 : 289).

Vosloo (1974 : 26) writes that during the 1960's urban local authorities were by far the largest group and were known by a variety of official designations in the various provinces, but were generally known as 'municipalities'. They were "creations" of the provinces and enjoyed no constitutionally entrenched charter or home rule rights. Craythorne (1990 : 6) adds that local authorities had varying powers but were all corporate bodies with elected members, who for the purpose of supervision fell under their respective provinces.

Table 7.1 depicts the various forms of urban local authorities in South Africa during the 1960's in the then four provinces (Cloete, 1971 : 36).



**Table 7.1 : Forms of Urban Local Authorities**

	<i>Natal</i>	<i>Cape Province</i>	<i>Transvaal</i>	<i>Orange Free State</i>
Council of a municipality		170		74
Town council	30		60	
Village council	19	91	29	
Health committee	65		18	
Local board				2
Board of Development & Services	1			
Board of Development & Urban Areas			1	

In peri-urban and rural areas, local government comprised divisional councils in the then Cape Province and various boards, commissions and committees in the other three provinces (Vosloo, 1974 : 29-31).

Local government in South Africa went through a stable period in the 1960's and the 1970's without any significant decentralisation policies being implemented. The first real initiative in this regard came with the **Constitution Act**, 1983 and the establishment of Black local authorities and Regional Services Councils in the 1980's.

Flowing from the foregoing, the then new local government structures are depicted in Annexure H (Todes & Watson, 1986 : 89).

The **Constitution Act**, 1983 provided that local government matters for Whites, Indians and Coloureds would be "own" affairs to be dealt with by each of the relevant three Houses of Parliament subject to such general laws as could be passed by Parliament. Notwithstanding this provision in the Constitution of 1983, White local authorities continued with their activities under the provisions of the provincial ordinances and the relevant Acts passed by Parliament. Up to 1983 Parliament did not pass Acts to prescribe systems of local government for White urban areas (Cloete, 1988 : 238).

Due to the political instability in African urban areas in the mid 1970's reforms to local government were inevitable and in 1982, the **Black Local Authorities Act**, 1982 granted full municipal status, comparable to that of White local authorities (Heymans & White, 1991 : 5).



Heymans & White (1991 : 6-7) summarise the main features of the politics of Black local authorities between 1982 and 1990 as follows:

- Development boards continued to exercise considerable administrative control over the Black local authorities until 1986. After the abolition of the boards, top-down control over Black local authorities was sustained through the community services branches of the various provincial administrations.
- Limited political support for Black local authorities was evident in the low percentage polls in elections between 1983 and 1988, which averaged 25,1 percent in 1988.
- Allegations of corruption within councils have increased and have added to the controversies around Black local authorities.
- Councillors and municipal properties have since the mid-1980's become targets of physical attacks, which led to the resignation of many councillors and councils. By June 1986 fifty three of the total of two hundred and thirty five Black local authorities were no longer functioning.
- Even where they have been functioning, Black local authorities have never managed to overcome their fiscal predicament, despite having new funds channelled towards them through the Regional Services Councils and bridging finance.

State reformers realised that there had to be both political and economic decentralised reform to ensure greater stability in the country. However, although committed to power sharing, the Nationalist Party had no intention of losing control of the reform process. Both these objectives were encapsulated in the **Regional Services Councils Act**, 1985 (Act 109 of 1985) which introduced multi-racial local government structures, namely, the Regional Services Councils (Cameron, 1991 : 225).

Humphries (1992 : 63) writes that the Government has always described the Regional Services Councils as 'horizontal extensions of local authorities', thereby implying that they were firmly located on the third level of government. Craythorne (1990 : 22) in concurring, adds that Regional Services Councils exist side-by-side with the other forms of local government and do not form a new tier of local government. In this regard Motshekga (1999 : 5) concludes that the powers and



functions contained in Schedule 2 of the **Local Government Transition Act Second Amendment Act**, 1996 (Act 97 of 1996) are carried over to the transitional metropolitan councils from the defunct regional services councils.

Craythorne (1990 : 23) continues that by extending and entrenching the concept of "own" and "general" affairs, the **Regional Services Councils Act**, 1985 evoked political criticism and caused disruption which led to increased costs. A more serious failing was its strong centralisation of power at the provincial and central government levels. This centralisation opened the way for interference against the wishes of the local participants, which could have fatal consequences for the success of these councils.

The objectives of Regional Services Councils are as follows:

- the broadening of democracy to include all the population groups of the country;
- the elimination and prevention of dominance of any population group over another;
- the elimination of discrimination on the basis of race, colour or creed;
- the provision of local government services on an efficient and cost-effective basis; and
- the development of additional sources of revenue at local government level to develop and provide services in areas where the need is the greatest (Uys, 1989 : 56).

Therefore, local government in South Africa during the 1980's was racially representative comprising general-purpose local authorities, at which point in time the Black local authorities formed a weak link in the otherwise relatively strong local level of government.

The process towards the establishment of non-racial local government commenced in the early 1990's by way of voluntary co-operation between the various authorities.



Hilliard (1993 : 9) writes that the Government passed legislation in the form of the **Interim Measures for Local Government Act**, 1991 (Act 128 of 1991) detailing interim measures and providing for voluntary co-operation between White municipalities and the other ethnic local authorities who wished to participate.

The Local Government Negotiating Forum, which was established in March 1993, negotiated a framework for guiding the local government transition, which was embodied in a Bill that was enacted in late 1993. The **Local Government Transition Act**, 1993 (Act 209 of 1993) provided for the transformation of the local forums into statutory forums with prescribed structures and procedures. The local forums were then mandated to negotiate locally appropriate solutions consistent with the principles of non-racialism, democracy, accountability and one tax base. The first task of local forums was to facilitate the appointment of representatives to serve on the new local government structures. In smaller towns these new structures were single integrated local governments called transitional local councils. In metropolitan areas a two-tier system was provided for, namely, a transitional metropolitan council for the whole metropolitan area, underpinned by metropolitan local substructures (Swilling & Boya, 1995 : 175).

Swilling & Boya (1995 : 175) continue that municipal elections were to usher in transitional structures that would last as long as the interim phase, which phase would last from the time of the municipal elections in 1995, to the agreement, by the elected constitutional assembly at national level, on a final constitution which would incorporate local government into the third level of government.

In terms of the provisions of Chapter 10 of the **Constitution Act**, 1993 the municipal councils established after the general elections held on 1 November 1995 or afterwards, are known as metropolitan councils, urban councils, that is, city or town councils, and rural area councils. In every metropolitan area there is:

- an overarching metropolitan council to perform specific functions for the whole area; and
- a number of councils for the substructures of the metropolitan area (Cloete, 1997 : 32).



The structures of local government in non-metropolitan or rural areas were established in 1995 by Provincial Proclamations in the nine provinces of the Republic of South Africa. The enactments or proclamations established district councils and local councils which are corporate bodies with perpetual succession with half the number of seats on a district council representing the interest of the council and the other half the interests of the transition of local councils. These councils replaced the Regional Services Council in rural areas.

Thus, in the metropolitan areas the previous Regional Services Councils are now known as transitional metropolitan councils, underpinned by the previous urban municipalities now known as metropolitan local substructures, that is, a "two-tier" structure. The decentralised units of the previous Regional Services Councils in rural or non-metropolitan areas are now known as district councils. In the rural areas there are also local councils which represent the towns in these areas or districts. Therefore, there is a "two-tier" structure in non-metropolitan areas.

The local political structure does not truly comprise "two-tiers", even though many people have the perception that this is the case. In essence the transitional metropolitan and district councils are horizontal extensions of the urban and rural municipalities.

Table 7.2 indicates the local authorities which were established in the various provinces as a result of the transitional process in 1995/96 (Cloete, 1997 : 34).



**Table 7.2 : Transitional Local Authorities**

Category	Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Mpumalanga	Northern Cape	Northern Province	North West	Western Cape	Total
Urban Transitional Metropolitan Councils	0	0	4	1	0	0	0	0	1	6
Transitional Metropolitan Substructures	0	0	12	6	0	0	0	0	6	24
Transitional Local Councils	94	80	14	61	53	64	12	30	86	494
Rural District Councils	6	4	2	7	3	6	2	5	7	42
Local Councils	7	15	0	0	0	0	36	0	0	58
Representative Councils	76	0	9	0	24	42	0	18	27	196
Local Area Councils	0	0	10	0	0	0	0	0	0	10
<b>Total</b>	<b>183</b>	<b>99</b>	<b>51</b>	<b>75</b>	<b>80</b>	<b>112</b>	<b>50</b>	<b>53</b>	<b>127</b>	<b>830</b>

In South Africa there are also in existence a number of special-purpose local authorities, for example, irrigation boards, water boards and local boards of management for settlements. These special-purpose local authorities function under the supervision of government departments and the ministers responsible for the administration of the relevant Acts of Parliament (Cloete, 1997 : 31).

Thus, it can be stated that prior to the first non-racial municipal elections in South Africa which were held in 1995/96, there were limited decentralised structural reforms to local government, that is, apart from the establishment of Black local authorities and the Regional Services Councils. However, local government during the transitional period has undergone major decentralised structural reforms in order to create the various non-racial units as depicted on Table 7.2.

In conclusion, it can be stated that local government in South Africa as at 1995/96 comprises “two tiers” of representative general-purpose institutions in both the metropolitan and non-metropolitan areas. Furthermore, there are a limited number of non-representative special-purpose local authorities.



### 7.3.3 LOCAL FUNCTIONS

In this subsection the functions and powers of local authorities in South Africa over the period 1961 to 1995 will be dealt with.

Municipalities are empowered to pass by-laws and to adopt resolutions on matters entrusted to them in terms of central government legislation and provincial ordinances. The range of functions delegated to municipalities include streets, sidewalks and drainage, water and electricity supplies, refuse and night soil removal, fire services, parks and recreation, libraries, health services, cemeteries and crematoria, public toilets, traffic control, town and city planning, housing, slum clearance, environment conservation, abattoirs, licences and the construction and maintenance of municipal buildings (Vosloo, 1974 : 26-27 and Cloete, 1997 : 99-106).

Flowing from the foregoing, Table 7.3 depicts the foregoing functions common to urban local authorities in South Africa which have been placed into four broad categories.

**Table 7.3 : Categories of Functions**

<b>Basic Services</b>	<b>Protection &amp; Safety Services</b>	<b>Social &amp; Welfare Services</b>	<b>Cultural Services</b>
Water Electricity Streets, side-walks and drainage Refuse removal	Fire Traffic Civil protection Town and City planning Licences	Clinics Housing Public toilets Abattoirs Cemeteries Environment conservation Municipal buildings	Parks and recreation Libraries

Local authorities in South Africa are representative general-purpose institutions. If the Acts of Parliament and the provincial ordinances whereby municipal authorities have been constituted are examined, it will be found that each municipality can deal with a larger number of matters than any administrative institution functioning under the control of a central or provincial legislature (Cloete, 1997 : 98).

Where legislation states expressly that a local authority is to provide a particular service, then the local authority is compelled to do so, but the powers to provide



most of the services listed in provincial legislation are *permissive*. Acts of Parliament tend to be coercive, while provincial ordinances tend to confer permissive powers. Where Parliament does legislate on compulsory powers there is a tendency to impose financial burdens on local government without accompanying sources of income, for example, public health and fire services (Craythorne, 1990 : 451-452).

Ndlovu (1991 : 87) adds that frequently mandatory functions are performed by local authorities as agents of the central government. These functions include the provision of specified services, such as, housing and health, which are provided subject to the stipulations of the relevant Acts of Parliament. Local authorities are usually subsidised, either wholly or in part, for the provision of these services.

Section 3 of the **Regional Services Councils Act**, 1985 makes provision for twenty one functions to be performed by the councils, namely, bulk supply of water and of electricity, land usage and transport planning, roads and stormwater drainage, passenger transport services, traffic, abattoirs, fresh produce markets, refuse dumps, cemeteries and crematoriums, ambulance and fire brigade services, health services, airports, civil defence, libraries, museums, recreation facilities, environment conservation, promotion of tourism and the establishment, improvement and maintenance of other infrastructural services and facilities. Cameron (1993 : 421) writes that most of these functions were to have been transferred from the primary local authorities to the Regional Services Councils.

This, however, did not happen due to the fact that the government considered them to be on the same tier, or an extension of the other primary local authorities.

The functions of the Regional Services Councils are, thus, similar to those common of the urban local authorities with the main exception being that more emphasis is placed on the establishment, improvement and maintenance of infra-structural services and facilities in the poorer areas. The functions can, therefore, also be grouped into the four broad categories used in respect of the urban local authorities.



According to Cameron (1991 : 227) the original intention was for Regional Services Council's functions to be matters of "general" affairs while matters of "own" affairs were to be controlled by racially based local authorities. However, the **Regional Services Councils Act**, 1985 was amended in 1986 to make provision for the councils to perform both "general" and "own" affairs functions. This was due to the fact that the Regional Services Councils in the Cape, unlike those of the Transvaal and the Orange Free State, were not newly created bodies. They took over the infrastructure and functions of Divisional Councils which included both "general" and "own" affairs matters.

In concurring, Venter (1987 : 3) adds that at the third level of government, "general" affairs functions were intended to only be dealt with by the Regional Services Councils within a particular region, irrespective of the population group on which the functions of a specific local authority have a bearing. However, the **Regional Services Councils Act**, 1985 was amended to enable these councils to perform both "general" and "own" affairs functions.

The transitional metropolitan councils and the district councils took over the functions of the Regional Services Councils and their decentralised councils in rural areas respectively when they replaced the latter in 1995. The functions of the previous urban local authorities were taken over by the transitional local metropolitan substructures and those of the rural local authorities by so-called local councils.

Turning to the decentralisation policies and strategies of the Government, Cameron (1995 : 404) is of the opinion that the National Party's policy of devolution of functions and powers to local government had three main objectives.

- To embody the basis of self-determination. Devolution was a mechanism through which group rights could be protected. This was to be achieved through the creation and strengthening of different racial authorities.
- To serve as a conflict-defusing mechanism, that is, to depoliticise highly contentious issues. Part of this strategy entailed the transfer of local development problems to local government units.



- Centralised rule proved to be inefficient and unresponsive to local needs. It was hoped that devolution would expedite communication and decision-making and lead to decisions being adapted to local conditions.

Jonker (1988 : 54) states that it was common knowledge that the Government accepted the principle of devolution of functions and powers to local government. There, however, were numerous problems with the execution of these intentions. Prior to, and after 1983 it was envisaged that the devolution of functions and powers to local government by way of legislation would be the rule and not the exception, but few such measures have been taken up in the statute books or regulations.

In agreeing, Todes & Watson (1986 : 95-96) add that while emphasis has been given by various government spokespersons to the devolution of power, it was not clear which functions and powers were to be devolved. The only announcements made concerning the decentralisation of power have been with regard to the transport function and detailed metropolitan planning. However, the planning of these areas remained centralised under the ministerially-appointed guide plan committees and local government structures played a limited role within this, that is, deconcentration of power. Uys (1989 : 84) adds that a misconception which exists is that devolution takes place if certain executive functions are transferred to local government. Devolution is political decentralisation, which means that greater autonomous legislative power must be given to local authorities whereby they can promulgate regulations relating to their autonomous executive functions and are not controlled by central government legislation.

Uys (1989 : 85) concludes that local authorities were in a melting pot with constant promises by the central government of greater devolution of functions and powers. There were, however, few signs with regard to the devolution of powers to local authorities. The so-called "autonomy" which was given to local authorities, has been done on the basis that it can be withdrawn at any time. The struggle of local authorities appeared not to be for greater powers, but rather to retain the powers which have already been allocated to them, that is, a battle against creeping centralisation.



Thus, it can be concluded that there are a number of functions which are common to both the urban local authorities and the Regional Services Councils in South Africa. The functions of local authorities are by and large delegated in that they are executed on behalf of either the central or provincial governments on an agency basis subject to the stipulations in the relevant legislation.

It can be stated that in the 1980's and early 1990's there was substantial rhetoric from the then Government's side concerning the devolution of functions and powers to local government, which did not materialise.

#### **7.3.4 LOCAL FINANCE**

This subsection will deal with the primary sources of revenue of local authorities in South Africa over the period 1961 to 1995.

Local authorities in South Africa derive their revenue from the following main sources:

- property taxes, that is, rates on land and buildings in urban areas;
- charges in respect of various services rendered, for example, sewer fees, pound and ambulance fees, fees for the removal of refuse and night soil, rent for municipal halls and entrance fees for the use of various facilities;
- revenue from trading enterprises, that is, the provision of gas, water, electricity, public transport, abattoirs and fresh produce markets;
- subsidies from central and/or the provincial governments for functions undertaken on an agency basis; and
- Regional Services Council levies (Cloete, 1997 : 120-127).

The chief source of revenue for local authorities is the user charge, which forms the basis of revenue from trading departments. The bulk of this revenue is derived from the sale of electricity and water to residents. Smaller amounts are also earned from the levying of a user charge for refuse and sewage services and other more minor services. The bulk provision of certain services and the retailing is often performed by the largest city of the area which serves as a regional supplier for neighbouring towns and charges them accordingly (Solomon, 1988 : 84-85).



Table 7.4 indicates the degree to which revenue from trading departments dominated the local government revenue picture (Solomon, 1988 : 84).

**Table 7.4 : Gross Expenditure of Local Governments**

<i>Gross expenditure of all local governments (% of Total)</i>				
	<i>Trading</i>	<i>Rates</i>	<i>Other</i>	<i>Total</i>
1970	53,61	17,61	28,79	100
1975	53,87	18,53	27,60	100
1981	58,13	15,31	26,56	100

In terms of the **Regional Services Councils Act**, 1985 new sources of revenue are defined which, *inter alia*, makes provision for the subsidisation and upgrading of services in Black areas. These revenues are collected and distributed by the Regional Services Councils and comprise a regional establishment levy and a regional services levy. The primary local authorities continue to rely on a rates income to finance the administration of their "own" affairs functions. However, those primary local authorities which are unable to cover their costs will be able to draw on the funds of the Regional Services Councils, as opposed to raising the levels of their rates and rents (Todes & Watson, 1986 : 91).

Subsidies have always formed an insignificant part of local government funding, and were confined to ambulance, health, libraries and housing. There are, however, other sources of funds from provincial and central level which are not classified as subsidies, but reimbursements in respect of the expenses of functions carried out by a local government as agents for the higher level of government, for example, health and housing. Another notable element in the subsidisation policy in South Africa was the way in which subsidies were provided to Black municipalities. In all but the largest they were channelled through a White neighbouring local authority which provided services such as health, ambulance and fire brigade to the Black community, and was reimbursed by the central and provincial governments (Solomon, 1988 : 88).

Solomon (1988 : 89) continues that the major source of finance for capital development has been the capital market. Local governments raise loans on the



market on a regular basis by issuing loan stock. Payment of the interest and provision for redemption must be made from the current income of the local authority. Since the Regional Services Councils are basically concerned with capital development, it follows that most of their actions should be financed from this source.

Humphries (1992 : 65) is of the opinion that the most crucial issue facing Regional Services Councils was that of the relationship between their financial base and their capacity to take on further services, that is, how to undertake a larger number of services while balancing the various financial demands being placed at the doors of the Regional Services Councils. These financial roles included that of financing infrastructure provision, maintaining infrastructure, covering various operating costs and the costs incurred in service provision.

As was the case in respect of local functions, the sources of revenue of the Regional Services Councils, its decentralised councils in rural areas and the urban and rural councils were taken over by the respective transitional local authorities which replaced them in 1995.

Turning to the decentralisation policies and strategies of the Government, Watson (1988 : 176) states that rapid urbanisation and population growth, and excessive poverty in developing countries, such as South Africa, have placed an upward pressure on local government spending and have restricted the revenue raising ability of local authorities. The response on the part of local governments on this resource squeeze has taken on a number of forms, namely:

- a greater dependence on central government for grants and subsidies;
- increased local borrowing;
- increasing revenue from local sources, mainly rates and service charges; and
- the privatisation of services.

According to Jonker (1988 : 55) local authorities have continuously been complaining that, with the restricted and unpopular property tax base, they cannot be assured of an adequate income in the light of economic circumstances. Instead



of providing local authorities with relief, the higher levels of government have required local authorities to fulfill further functions without adequate compensation. Craythorne (1990 : 494), in concurring, writes that for some time there has been the tendency on the part of the Government to delegate functions to local government and to instruct that those functions be implemented. Invariably these delegated functions did not bring about any extra income, which meant that the same amount of money had to be spread more thinly, to the detriment of local needs, for example, civil protection, health, slums clearance, housing and Regional Services Council levies.

Cameron (1995 : 407) writes that the most prominent form of centralisation was greater macro economic control by the Department of Finance over expenditure of local authorities. Since 1982/83 the Department of Finance has exercised macro-economic control over local authorities' operating and capital expenditure. It sets a maximum percentage level permissible increase in expenditure over the previous year's budget. With the exception of one year, these maximum controls have been below the inflation rate.

Thus, local authorities in South Africa derive their revenue from primarily five sources, the most prominent of which is from the sale of electricity and water to residents.

It can be stated that grants and subsidies formed an insignificant portion of local government funding in respect of the previous White local authorities. The Black local authorities were assisted by White neighbouring local authorities with the provision of various services for which the latter, in turn, received subsidies or reimbursements from the central and provincial governments.

It can further be stated that the central government applies stringent control measures over the spending of local authorities, and that further sources of revenue and mechanisms of funding will have to be allocated to local government to alleviate the financial strain.

In concluding, Croeser (1991 : 140) identifies four elements in the financing of local government in a future dispensation, namely, the decentralisation of taxes and



other sources of revenue and the creation of new revenue sources, revenue sharing between the different levels of government, intergovernmental transfers to finance, especially minimum standards of a limited number of essential services, and project financing.

## 7.4 LOCAL GOVERNMENT REFORMS FROM 1996 TO 1999

This section will address the local government reforms which took place after the 1995/96 democratic local government elections in which, for the first time, all the various population groups in South Africa could participate. This section of the chapter will also focus on the decentralisation phenomena pertaining to the criteria identified for this study, namely, political system, local political structure, functions and finance.

### 7.4.1 POLITICAL SYSTEM

In terms of the provisions of the **Local Government Transition Act, 1993**, local government remodelling occurs in three distinct phases which are similar to the national transformation process. There are parallels between the transformation at the national and local levels of government. The phases in the remodelling process are depicted in Table 7.5 (Cloete, 1995 : 6).

**Table 7.5 : Phases of Transformation**

NATIONAL LEVEL	LOCAL LEVEL
<b>Transit appointed period</b> <ul style="list-style-type: none"> <li>• Multi-party negotiations</li> <li>• CODESA*</li> <li>• TEC**</li> </ul>	<b>Pre-interim period</b> <ul style="list-style-type: none"> <li>• Multi-party negotiations</li> <li>• Local forums</li> <li>• TMC/TLC/TLCC***</li> </ul>
<b>Interim elected period</b> <ul style="list-style-type: none"> <li>• National elections (April 1994)</li> <li>• Elected Interim Parliament</li> <li>• Government of National Unity (five years)</li> </ul>	<b>Interim period</b> <ul style="list-style-type: none"> <li>• Local elections (October 1995 – April 1996)</li> <li>• Elected Interim Local Authorities</li> <li>• Government of Local Unity (three to five years)</li> </ul>
<b>Final democratic phase</b> <ul style="list-style-type: none"> <li>• Final Constitution</li> <li>• Final Government Model</li> </ul>	<b>Final phase</b> <ul style="list-style-type: none"> <li>• Final Local Government Constitution</li> <li>• Final Local Government Model</li> </ul>

\* = Co-ordinating Democratic Executive of South Africa

\*\* = Transitional Executive Committee

\*\*\* = Transitional Metropolitan Council / Transitional Local Council / Transitional Local Co-ordinating Committee



Flowing from the foregoing, Cameron (1996 : 36) writes that the final phase of the local government restructuring and transformation process commences with the implementation of the final constitution and model at local level. Neither the **Constitution Act, 1993** nor the **Local Government Transition Act, 1993** mentions anything about this model.

The Constitutional Assembly drew up a new Constitution for the Republic of South Africa which was promulgated on 18 December 1996 and which came into effect in 1997, and is known as **The Constitution of the Republic of South Africa, 1996** (Act 108 of 1996).

The **Constitution Act, 1996**, as was its predecessor the **Constitution Act, 1993**, makes the Constitution the supreme law of the country and, therefore, any law inconsistent with it is invalid. An advanced Bill of Rights forms the cornerstone of the Constitution. Provision is made for a three-sphere system of government comprising national, provincial and local spheres (levels), which are distinctive, interdependent and interrelated. The principle of co-operative governance underpins intergovernmental relations (Cameron, 1999 : 225-226).

Parliament consists of a National Assembly and the National Council of Provinces. The legislative authority of the national sphere of government is vested in Parliament. The directly elected National Assembly considers all national legislation. The National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does so mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces. The legislative authority of a province is vested in the elected provincial legislature (Cameron, 1999 : 226).

The Constitutional Court is the highest court in all constitutional matters and has the power to decide disputes between organs of state in the national or provincial sphere concerning the constitutional status, powers or functions of any of these organs of state (Cameron, 1999 : 226).



In this subsection the founding provisions of the Republic of South Africa, the spheres of government, the status, and objects of local government will be addressed.

#### 7.4.1.1 Founding Provisions

Section 1 of the **Constitution Act**, 1996 stipulates that the Republic of South Africa is one sovereign, democratic state founded on the following values:

- human dignity, the achievement of equality and the advancement of human rights and freedoms;
- non-racialism and non-sexism;
- supremacy of the Constitution and the Rule of Law; and
- universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

The founding principles of the **Constitution Act**, 1996, therefore, make provision for the achievement of equality and the advancement of human rights and freedoms, non-racialism and non-sexism, the supremacy of the Constitution and universal adult suffrage.

#### 7.4.1.2 Spheres of Government

The Constitution of 1996 refers to “sphere” instead of level, thereby emphasising the new relationship of co-operation among the levels of government. The ‘government level’ refers to a hierarchical relationship as endorsed by experience of the former dispensation in systems of control and intergovernmental relationships (Meyer, 1998 : 6).

Section 40 of the **Constitution Act**, 1996 states that:

- the government of the Republic is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated;



and

- all spheres of government must observe and adhere to the principles of co-operative government and intergovernmental relations.

Section 41 of the **Constitution Act**, 1996 details the principles of co-operative government and intergovernmental relations which the levels of government and organs of state within each level must adhere to. These relations are primarily based on the mutual respect for each others constitutional status, powers and functions as well as to foster mutual trust and good faith by supporting one another, informing and consulting one another on matters of common interest, and by co-operating actions and legislation with one another.

Thus, there are three separate, interdependent and interrelated spheres (levels) of government in South Africa which must adhere to the principles of co-operative government.

#### 7.4.1.3 Status of Local Government

In terms of section 151 of the **Constitution Act**, 1996, the status of municipalities is described as follows:

- the local sphere of government consists of municipalities, which must be established for the whole of the territory of the Republic;
- the executive and legislative authority of a municipality is vested in its municipal council;
- a municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution; and
- the national or a provincial government may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions.

Therefore, municipalities have the right to govern in their areas of jurisdiction, subject to the provisions of applicable legislation, without being impeded in so doing by the higher levels of government.



Flowing from the foregoing, Meyer (1998 : 11) writes that a municipality has executive power in respect of, and a right to administer, the local government matters set forth in Part B of Schedules 4 and 5 of the **Constitution Act**, 1996 and any other matter entrusted to it by national or provincial legislation. It is also constitutionally the local legislature which is vested with power to make by-laws in respect of matters which it has the right to administer. These are its powers and functions, which may not be impeded or compromised by the national or provincial governments.

#### 7.4.1.4 Objects of Local Government

Section 152 of the **Constitution Act**, 1996 states that the objects of local government are to:

- provide democratic and accountable government for local communities;
- ensure the provision of services to communities in a sustainable manner;
- promote social and economic development;
- promote a safe and healthy environment; and
- encourage the involvement of communities and community organisations in the matters of local government.

Thus, local government is accountable to the community it serves, provide it with services, promote social and economic development and a healthy environment as well as encourage community participation.

With regard to the system of co-operative government provided for in terms of the Constitution of 1996, the provincial government has, as an adjunct to its obligations, powers of monitoring and supervision of local government. Both national and provincial governments also have the legislative and executive authority to see to the effective performance of functions by municipalities by regulating municipal executive authority, which powers are considerable and allow for a large measure of intrusion on the functional and institutional terrains of local government (Primstone, 1998 : 3).



In concurring, Reddy (1999 : 216) adds that the decentralisation debate has been lively in South Africa during the negotiation process. The interim Constitution of 1993, in comparison to the Constitution of 1996, provided for far greater decentralisation. When studied in detail, it would appear that the South African state will be highly centralised. However, the objective of the Constitution is to define the basic rules in terms of which the country will be governed.

Steytler (2000 : 17) adds that the drift towards centralisation has not been arrested by the Constitutional Court. While it has been willing to adjudicate the competition between the spheres of government, it has set a low level of scrutiny for the necessity of national legislation. As a result it has been unable to find in favour of provinces in any meaningful way. The Court is developing a concept of co-operative government with a strong unitary emphasis that eschews any form of competition between provinces. With the emphasis on political processes to deal with issues of concurrency, key decisions on legislation will be made at executive level, outside the public forum and debate of provincial legislatures.

In conclusion, it can be stated that South Africa is a democratic state with a unitary system of government comprising three separate, interdependent and interrelated spheres of government, namely, national, provincial and local. It can also be stated that the rights and status of local government are guaranteed in the Constitution of 1996.

Finally, it could be stated that the degree or form of decentralisation which will take place in South Africa will be dependent on the legislation which has, and still has to be enacted in terms of the provisions of the **Constitution Act**, 1996, and further rulings of the Constitution Court which should consequently crystallise intergovernmental relations.

#### 7.4.2 LOCAL POLITICAL STRUCTURE

In this subsection relevant aspects of the **Constitution Act**, 1996, the **Green Paper on Local Government**, 1997 and the **Local Government: Municipal Structures Act**, 1998 (Act 117 of 1998) will be addressed.



The **Green Paper on Local Government**, 1997 makes provision for some models or options with regard to metropolitan and non-metropolitan government structures, which are not provided for in the **White Paper on Local Government**, 1998, which could prove to be useful for evaluation and explanatory purposes and for later analysis when developing a model for local government in South Africa. It is for this reason that the **White Paper on Local Government**, 1998 will not be addressed in this dissertation.

#### 7.4.2.1 Constitution Act, 1996

Section 155 of the **Constitution Act**, 1996 provides for the establishment of the following categories of municipalities:

- **Category A:** A municipality that has exclusive municipal executive and legislative authority in its area.
- **Category B:** A municipality that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls.
- **Category C:** A municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

Section 155 of the **Constitution Act**, 1996 further provides that national legislation (Acts of Parliament) must define the different municipal structures that may be established within each category and also must:

- establish the criteria for determining when an area should have a single category A municipality or when it should have municipalities of both category B (local) and category C (district);
- establish criteria and procedures for the determination of municipal boundaries by an independent authority; and
- subject to section 229, make provision for an appropriate division of powers and functions between municipalities when an area has municipalities of both category B and category C. The division of powers and functions between a category B municipality and a category C municipality may differ from the division of powers and functions between another category B municipality and that category C municipality.



Section 155 of the **Constitution Act**, 1996 also states that provincial legislation must determine the different types (internal structures) of municipality to be established within each category in the province, and each provincial government must establish municipalities in its province in a manner consistent with the legislation enacted in terms of the foregoing paragraph and, by legislation or other measures, must:

- provide for the monitoring and support of local government in the province; and
- promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs.

Thus, it can be stated that the Constitution of 1996 makes provision for the establishment of municipalities falling into three categories, details of the various structures or tiers in the metropolitan and non-metropolitan areas must be stipulated in an Act of Parliament. Furthermore, the provincial government must, by proclamation, determine the internal structures of municipalities, which is a feature of a unitary system of government whereby decentralisation predominantly takes the form of deconcentration.

#### **7.4.2.2 Green Paper on Local Government, 1997**

In this subsection the options for metropolitan and district local government structures contained in the **Green Paper on Local Government**, 1987 are addressed as theoretical background for later analysis when a model for local government in South Africa is developed.

##### **7.4.2.2.1 Options for Metropolitan Government**

**The Green Paper on Local Government** (1997 : 41-43) states that there are four options which can be considered for **metropolitan** government structures.

- *Metropolitan legislature without statutory powers*  
*The metropolitan legislature is usually indirectly elected from municipalities which fall within the metropolitan area. The metropolitan legislature provides a forum in which policy-makers can discuss issues of metropolitan-wide*



*significance, and reach agreements on horizontal co-operation between municipalities within the metropolitan area. Real collaboration on issues of metropolitan-wide significance depends on constituent municipalities reaching agreement in the metropolitan legislature, and translating such agreement into executive decisions within their own municipal councils.*

Thus, this is a voluntary form of metropolitan government which is based on inter-municipal agreements whereby the status quo of the local structures in the metropolitan area is maintained. Problems, however, do arise with such voluntary arrangements when controversial issues, such as poverty alleviation, housing, welfare, crime, resource distribution and equity are being deliberated. Furthermore, issues of concern are not equally experienced or peculiar in all the municipal areas of a metropole, which in turn could be problematic in reaching agreement in a voluntary situation.

- *Single or multi-purpose delivery institutions*

*This system attempts to preserve maximum autonomy for municipalities while exploiting metropolitan economies of scale for the delivery of bulk infrastructure or other services. Metropolitan utilities are usually governed by a council or board which is indirectly elected from municipalities in the metropolitan area. This is a limited form of metropolitan government. While there may be a significant administrative capacity at metropolitan level, there is limited scope for the metropolitan government to develop and implement an integrated policy perspective on the development of the metropolitan area.*

Therefore, this is an institutionalised form of voluntary metropolitan government whereby an association is formed comprising indirectly elected representatives from the various municipalities in a metropolitan area whose purpose it is to consult on and to co-ordinate municipal issues or problems. The autonomy of the various municipalities is not effected by this voluntary form of association. A major problem with this form of governance arises when agreements reached by an indirectly elected association or board are not supported by the constituent municipalities.



- *Two-tier system*

*This system is where both levels, that is, metropolitan and local exercise legislative, executive and administrative powers and functions. The basic logic of this model is that issues of metropolitan-wide significance are best addressed at a metropolitan level, and issues with local significance are best addressed at the local level. Within this system several variations are possible. The combination of factors which will determine the exact nature of metropolitan government in this type are: the allocation of powers and functions between the levels, the criteria used to demarcate the metropolitan and local boundaries, the manner in which the metropolitan council is constituted, and the mode of delivery.*

Thus, this form of directly or indirectly elected metropolitan government comprises a metropolitan (higher) and a local (lower) tier of governance each of which exercises legislative, executive and administrative powers and functions. The former tier may undertake functions of metropolitan significance, such as, the bulk supply of electricity and water and land usage and transport planning, whilst the latter tier performs functions which are of local significance and best suited to be carried out closer to the people.

It can be stated that this form of metropolitan government complies with the key objectives and values of decentralisation, namely, nation building, democracy, freedom, efficiency of administration, responsiveness and accountability, policy diversity and public participation.

Furthermore, this form of metropolitan government is best suited when the lower tier authorities are large enough to effectively undertake a wide variety of functions and are of similar size to ensure comparable capacities and resources. Problems typical of multiple structure forms of local government that do arise are the fragmentation and overlapping of functions and resources.

- *"Single city"*

*This form of metropolitan government consists of a single elected political council vested with all municipal powers and functions, and a single administration. Administrative functions may be delivered on a decentralised basis. The single city type may have a provision for the decentralisation of*



*some powers and functions to sub-municipal structures, such as ward or neighbourhood committees. The nature of these sub-municipal structures will depend on the extent to which powers and functions are decentralised to the sub-municipal level. Provincial legislation may prescribe the establishment of ward or neighbourhood committees, and may also specify certain powers and duties for these structures.*

Therefore, this form of directly elected single tier metropolitan government is vested with all municipal powers and functions under one administration, which entails the amalgamation of all the local authorities in the metropolitan area and the restructuring of all the administrations into one entity.

It can be stated that this form of metropolitan government does not comply with the key objectives and values of decentralisation, such as, nation building, democracy, freedom, efficiency of administration, responsiveness and accountability, policy diversity and public participation. This form of metropolitan government centralises political authority and power, creates a bureaucracy which is too big to be local, usually does not serve the interests of the local community and cannot effectively perform small scale services which require to be executed close to the citizens.

It can also be stated that the possibility of decentralising some powers and functions to sub-councils or ward committees is entirely at the discretion of the metropolitan council and could, thus, constitute mere advisory bodies.

In conclusion, the single tier form of metropolitan government should alleviate duplication and overlapping of functions, *vis a vis* a two-tier structure, and enhance the redistribution of wealth.

#### **7.4.2.2.2 Options for District Government**

According to the **Green Paper on Local Government** (1997 : 51-52) there are a number of options which can be considered for district government:

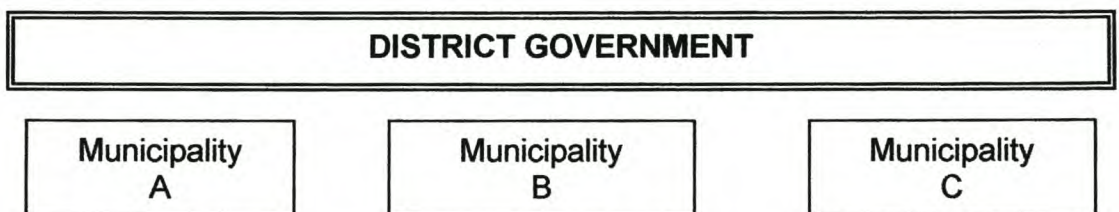


- *Local municipalities*

*Local municipalities, which are a standard form for relatively concentrated but contained urban settlements across the world, could be retained for many urban centres. The exact nature of local municipalities may vary between areas, depending on the size or population and other local circumstances. It is possible that the boundaries of local municipalities in cities and large towns could be extended to include the urban fringe.*

Figure 7.1 depicts this proposed form or type of district government.

**Figure 7.1 : Local Municipalities Type of District Government**



According to this model, municipality A will consist of the town and its rural area. In this instance the municipality and its rural area will function as one unit.

This form or type of directly or indirectly elected district government comprises a two-tier structure, namely, district and local or municipal, whereby each tier exercises legislative, executive and administrative powers and functions. The former tier executes functions of district significance, such as, the bulk supply of water and electricity, whilst the latter performs functions which are of local significance and best suited to be undertaken closer to the people, which model or option conforms with the objectives and values of decentralisation.

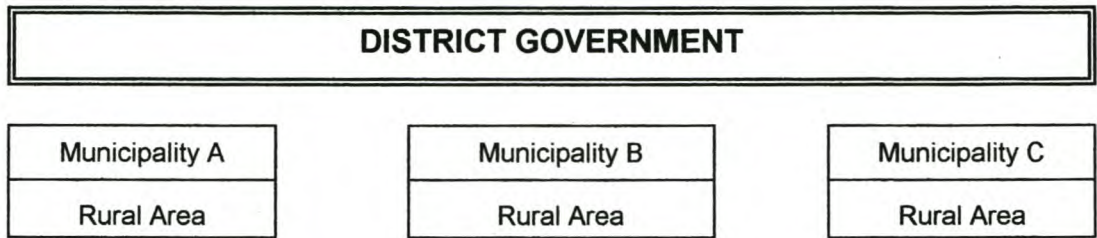
- *Representative municipalities*

*Existing municipalities are seen as embryonic rural councils, with more or less statutory powers depending on their capacity. A municipal type similar to existing representative councils could be reproclaimed. District governments would need to play a large role in supporting the representative municipalities either directly or indirectly with the provision of services and the development of their rural areas.*



Figure 7.2 depicts this proposed type of district government.

**Figure 7.2 : Representative Municipalities Type of District Government**



According to this model, the municipalities and the rural areas of the various municipalities will have separate representation in the district government. This is the form of district government in place during the interim phase of the local transformation process, that is, from 1995 to 2000.

This form of directly or indirectly elected district government comprises "two tiers", namely, district and local (municipal and rural), the latter of which has separate representation in respect of the urban and rural areas, which option also conforms with the objectives and values of decentralisation.

- *District government as primary tier*

*This model entails that there are no primary tier municipalities in rural areas. All municipal powers and functions with respect to these areas would vest with the district government. There are a number of sub-options within this type:*

- *The degree of administrative centralisation could vary from a central administrative office, to deconcentrated sub-district offices which have relative freedom to conduct administrative functions.*
- *District governments could be directly elected by proportional representation in rural areas. Alternatively, they could be constituted by representatives from multi-member wards. Multi-member wards would serve a predominantly representative function.*

Figure 7.3 depicts this proposed type of district government.



**Figure 7.3 : Primary Tier Type of District Government**

DISTRICT GOVERNMENT					
WARD	WARD	WARD	WARD	WARD	WARD
WARD	WARD	WARD	WARD	WARD	WARD

According to this model, the area is divided into wards which will resort under the district government.

This form of directly elected single tier district government comprising wards is vested with all municipal powers and functions under one administration, which entails the amalgamation of all the local units in the district and the restructuring of all the administrations into one entity. The model can be administered either by deconcentrated field offices or by delegating certain powers to the ward representatives.

- **Amalgamated municipalities**

*In commercial farmland areas where there are established municipalities, towns could be amalgamated with their surrounding hinterlands. Local municipalities would extend their service delivery networks into the territory surrounding them. Rural interests could be represented on the municipal council through a dual chamber system or a rural committee made up mainly of rural councillors. While the district government may retain some direct delivery roles in rural areas, the amalgamated local municipality would be largely responsible.*

Figure 7.4 depicts this proposed type of district government.

**Figure 7.4 : Amalgamated Municipalities Type of District Government**

DISTRICT GOVERNMENT		
Municipality A & B	Municipality C & D	Municipality E & F
(Town & Rural Area)	(Town & Rural Area)	(Town & Rural Area)



This form of directly or indirectly elected district government consists of two tiers, namely, district and local whereby the representation on the local tier comprises a dual chamber of elected representatives from the town or urban areas and the amalgamated surrounding rural areas.

Table 7.6 provides a summary of possible metropolitan and district government options (Green Paper on Local Government, 1997 : 54).

**Table 7.6 : Metropolitan and District Government Options**

OPTIONS FOR LOCAL GOVERNMENT			
	Metropolitan	→ ←	District
<b>Category A</b>	Single city metropolitan government (possibly with ward committees)		District government as primary tier (possibly with decentralised administrative offices, or community government)
<b>Category B</b>	Local municipalities Metropolitan local council	Amalgamated local municipalities	Rural municipalities Representative municipalities
<b>Category C</b>	Co-ordinating/integrating metropolitan government tier		Co-ordinating/integrating district government tier

#### 7.4.2.3 Local Government : Municipal Structures Act, 1998

The **Green Paper on Local Government**, 1997 offered four options for metropolitan government which were described in subsection 7.4.2.2.1. However, the **Local Government: Municipal Structures Act**, 1998 does not provide any options for metropolitan government. It enforces the single tier structure in areas which have been determined as metropolitan in terms of the **Local Government: Municipal Demarcation Act**, 1998 (Act 27 of 1998).

The reason for limiting the options for metropolitan government can possibly be ascribed to the fact that the Government is of the opinion that single-tier metropolitan structures are best equipped and suited to fulfill the following roles and responsibilities:



- city-wide spatial integration and socially inclusive development;
- promotion of equity, social justice and economic prosperity;
- promotion of local democracy; and
- provision of affordable and efficient services.

The said Act also curtails the options for district government.

In this subsection certain features of the **Local Government: Municipal Structures Act**, 1998 pertaining to metropolitan and district governments will be addressed.

Section 2 of the **Local Government: Municipal Structures Act**, 1998 stipulates that an area **must** have a single category A municipality if that area can reasonably be regarded as:

- a conurbation featuring:
  - areas of high population density;
  - an intense movement of people, goods, and services;
  - extensive development; and
  - multiple business districts and industrial areas;
- a centre of economic activity with a complex and diverse economy;
- a single area for which integrated development planning is desirable; and
- having strong interdependent social and economic linkages between its constituent units.

In terms of Section 3 of the said Act, an area which does not comply with the foregoing criteria **must** have municipalities of both category B (local) and category C (district).

Section 6 of the said Act, however, provides that the relevant National Minister, on the recommendation of the Demarcation Board and after consulting the relevant Provincial Minister, may declare a part of an area that must have municipalities of both category B and C as a district management area if the establishment of a category B municipality in that part of the area is not conducive to the fulfilment of



the objective set out in Section 24 of the **Local Government: Municipal Demarcation Act, 1998**.

Flowing from the foregoing, Section 24 of the said Act states that when the Demarcation Board determines a municipal boundary, its objective must be to establish an area that would:

- enable the municipality for that area to fulfill its constitutional obligations, including
  - the provision of democratic and accountable government for the local communities;
  - the provision of services to the communities in an equitable and sustainable manner;
  - the promotion of social and economic development; and
  - the promotion of a safe and healthy environment.
- enable effective local governance;
- enable integrated development; and
- have a tax base as inclusive as possible of users of municipal services in the municipality.

Reverting to the municipalities in the non-metropolitan areas, it can be stated that the debate concerning whether a category B (local) or a category C (district) should form a weak or strong tier of local government is still continuing, that is, as at August 2000. In this regard (Seiler, 2000 : 2-3) writes that the Provincial Minister of Local Government in the Western Cape, Mr Pierre Uys on 2 June 2000 announced that category B municipalities would become or serve as the focal point for service delivery and development in the province after all, only three of the twenty three category B municipalities in the province can be labelled as “weak” compared to the Eastern Cape, Northern Cape and KwaZulu-Natal which have far higher proportions of weak category B municipalities along with substantial numbers of weak category C municipalities.

Therefore, in terms of the **Local Government: Municipal Structures Act, 1998** a metropolitan area is classified or determined as such if it complies with certain



criteria, and an area which does not comply with the specified criteria is determined to be a non-metropolitan area.

In metropolitan areas a single-tier or unitary local structure is to be implemented and in non-metropolitan areas a “two-tier” structure comprising district and local councils.

Furthermore, in terms of the said Act, the National Minister is empowered to declare a portion of an area in which both district and local councils must be established as a district management area if the establishment of a district council in such area is deemed not to comply with the constitutional obligations of a municipality.

### 7.4.3 LOCAL FUNCTIONS

This subsection will address the functions allocated to local government in terms of the **Constitution Act**, 1996 and enabling legislation, namely, the **Local Government: Municipal Structures Act**, 1998 and the **Local Government: Municipal Systems Bill**, 1999.

Section 153 of the **Constitution Act**, 1996 states that the developmental duties of a municipality are to:

- structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and
- participate in national and provincial development programmes.

Section 156 of the **Constitution Act**, 1996 *inter alia* stipulates that:

- a municipality has executive authority in respect of, and has the right to administer:
  - the local government functions listed in Part B of Schedule 4 and Part B of Schedule 5 (see Annexures D and E); and



- any other matter assigned to it by national or provincial legislation;
- a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer; and
- a municipality has the right to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions.

However, Section 139 of the **Constitution Act**, 1996 stipulates that, when a municipality cannot or does not fulfill an executive obligation or function, the relevant provincial executive may intervene by taking appropriate steps to ensure the fulfillment thereof, which in essence means that the higher sphere of government is empowered to take over local functions.

Turning to the **Local Government: Municipal Systems Bill**, 1999 the purpose of which is essentially to establish systems to assist local government to achieve its constitutional mandate and create livable integrated cities, towns and rural areas and to attain transformed, developmental local government, which in the context of this study *inter alia* means setting up systems to ensure the effective delivery of services.

Flowing from the foregoing, Section 156(4) of the **Constitution Act**, 1996 stipulates that national and provincial governments must assign to a municipality, by agreement and subject to any conditions, the administration of a matter or function listed in Parts A of Schedules 4 and 5 (See Annexures F and G), which necessarily relates to local government, if:

- that function would most effectively be administered locally; and
- the municipality has the capacity to administer such function.

The definition of “municipal service” in the **Local Government: Municipal Systems Bill**, 1999, however, includes each and every function a municipality is competent to render in terms of Section 156(4) of the **Constitution Act**, 1996, that is, including Parts A of Schedules 4 and 5. If each of these functions are to be provided in the manner that the revenue collected is sufficient to cover the



operating and capital costs, then there would be no need to collect taxes or to share in revenue collected nationally. It may be so that some municipal functions could be financially viable, and these should be distinguished from those which are essential services rendered by municipalities, but require funding from other sources. Alternatively, if the objective is that each and every municipal function should be rendered in such a manner that a positive effort is made for the self-funding of such function, then the proposed Act should make this clear and not place a positive obligation on the municipalities to succeed from the outset (Cape Metropolitan Council, 1999 : 1).

In relation to the foregoing and specifically Section 14 of the said Bill, which deals with the exercise of executive and legislative authority pertaining to municipal powers and functions, the South African Local Government Association (1999 : 5) comments that if it is the intention to use the said section in cases where agreement cannot be reached between municipalities, then the constitutionality thereof is questionable. Further, the agreements with respect to additional functions and powers that are assigned to a municipality are not blanket agreements, but apply individually to municipalities. Thus, it is not clear how the legislation can be used.

In terms of Section 160 of the **Constitution Act**, 1996 the following functions may not be delegated by a municipal council:

- the passing of by-laws;
- the approval of budgets;
- the imposition of rates and other taxes, levies and duties; and
- the raising of loans.

The foregoing functions may not be delegated by a municipal council due to the fact that they are subject to or require the approval of either the provincial or national governments.

Thus, the Constitution of 1996 makes provision for the national or provincial government to devolve or delegate further functions to local government based on the principles of general competence and matching finance to functions.



Section 83 of the **Local Government: Municipal Structures Act, 1998** *inter alia* states that a municipality has the functions and powers assigned to it in terms of Section 156 of the **Constitution Act, 1996** and that these functions and powers must be divided in the case of a district municipality (category C) and the local municipalities (category B) within the area of the district municipality as prescribed in Section 84.

Subsection 84(1) of the **Local Government: Municipal Structures Act, 1998** stipulates that a district municipality has the following functions and powers:

- integrated development planning for the district municipality as a whole, including a framework for integrated development plans for the local municipalities within the area of the district municipality, taking into account the integrated development plans of those local municipalities;
- bulk supply of water that affects a significant proportion of municipalities in the district;
- bulk supply of electricity that affects a significant proportion of municipalities in the district;
- bulk sewage purification works and main sewage disposal that affects a significant proportion of municipalities in the district;
- solid waste disposal sites serving the area of the district municipality as a whole;
- municipal roads which form an integral part of a road transport system for the area of the district municipality as a whole;
- regulation of passenger transport services;
- municipal airports serving the area of the district municipality as a whole;
- municipal health services serving the area of the district municipality as a whole;
- fire fighting services serving the area of the district municipality as a whole;
- the establishment, conduct and control of fresh produce markets and abattoirs serving the area of the district municipality as a whole;
- the establishment, conduct and control of cemeteries and crematoria serving the district as a whole;
- promotion of local tourism for the area of the district municipality;
- municipal public works relating to any of the above functions or any other functions assigned to the district municipality;



- the receipt, allocation and, if applicable, the distribution of grants made to the district municipality; and
- the imposition and collection of taxes, levies and duties as related to the above functions or as may be assigned to the district municipality in terms of national legislation.

A municipality performs the functions referred to in Section 156 of the **Constitution Act**, 1996 (see Annexures D and E), excluding the foregoing which are vested, in terms of Subsection 84(1) of the above Act, in the district municipality in whose area it falls. However, a municipality is not prevented from performing any of the foregoing functions in its area of jurisdiction.

Turning to additional functions to be allocated to local government, Section 205 of the **Constitution Act**, 1996 states that national legislation must establish the powers and functions to enable the police service to effectively discharge its responsibilities. The **South African Police Service Amendment Act**, 1998 (Act 83 of 1998) provides for the establishment of municipal police services, the core functions of which will be traffic policing, policing of municipal by-laws and regulations and the prevention of crime. The only additional function for local government would be the prevention of crime in their respective areas of jurisdiction (Mufamadi, 1998 : 2).

Thus, in terms of the provisions of the **Constitution Act**, 1996 and the **Local Government: Municipal Structures Act**, 1998 local authorities in South Africa are empowered to perform a wide variety of functions of a local nature within their respective areas of jurisdiction. Local authorities in South Africa are, therefore, general-purpose institutions.

In conclusion, it can be stated that the majority of functions performed by local authorities are in accordance with either national or provincial legislation and, as such, are delegated functions performed on behalf of the higher spheres (levels) of government.



#### 7.4.4 LOCAL FINANCE

In this subsection the sources and mechanisms of local government funding in South Africa will be discussed as well as the financial management of local authorities.

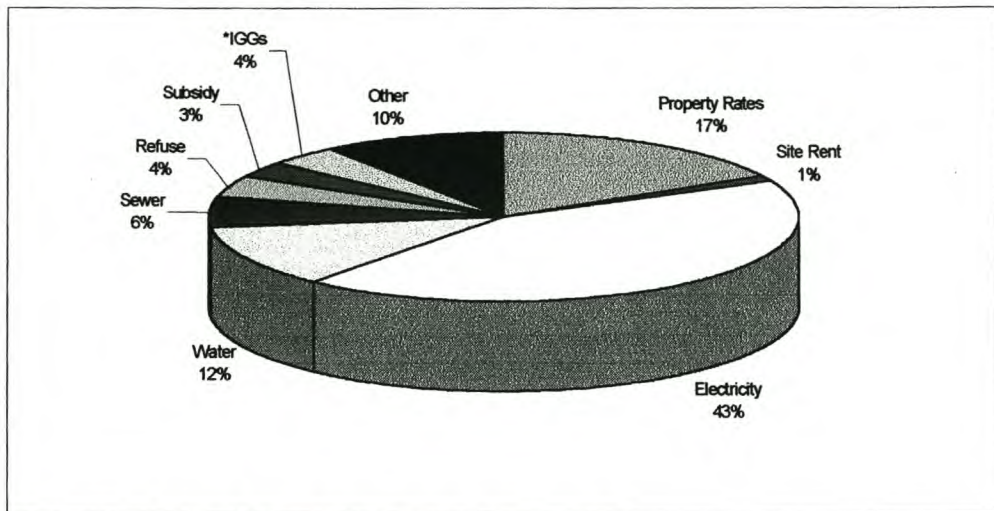
The aggregate size of the municipal budget in South Africa is substantial. In the 1996/97 financial year, municipalities budgeted for total expenditure of more than forty eight billion rand, which represented 7,5% of South Africa's total gross domestic product, or 20,97% of the country's total public sector budget. Within this overall figure, individual municipal budgets vary enormously. At the one end of the scale, metropolitan areas have budgets of several billions of rands, while at the other end, small rural councils have little revenue (Department of Constitutional Development, 1998 : 7).

The major source of local government revenue is generated by trading services, that is, electricity, water and sanitation. This is due largely to the historical role of municipalities as direct provider of services. Electricity, for example, is the largest source of revenue for many municipalities. The surplus derived from the sale of electricity, that is, the difference between the income derived from selling electricity and the costs of providing the service is not large, but it is an important source of income for many municipalities (Department of Constitutional Development, 1998 : 9).

There are, however, moves afoot to establish Regional Electricity Distribution bodies which would have severe financial consequences for local authorities.

Another major source of local revenue is property tax. Property taxes provide seventeen percent of local government own revenue. Trading services provide most of the balance, that is, electricity (forty three percent), water (twelve percent), sewer (six percent) and refuse removal (four percent). The sources of revenue of local authorities in South Africa for the 1996/97 financial year are depicted in Figure 7.5 (Department of Constitutional Development, 1998 : 10).



**Figure 7.5 : Sources of Revenue for Municipalities**

\*Intergovernmental Grants for Operating Expenditure

There are, however, large differences in South Africa between the fiscal capacities of metropolitan and non-metropolitan municipalities. Furthermore, within the present non-metropolitan areas there are differences between the fiscal capacity of secondary-tier and primary-tier municipalities, that is, the transitional representative and transitional rural councils as well as amongst the municipalities, that is, transitional local councils. When the viability and affordability of especially municipalities in rural areas are considered, it is important to keep the geographic sizes and population densities of various jurisdictions in mind. In order to establish the cost of a minimum standard of basic services in rural areas, population density is an important factor (Katz Commission, 1999 : 5).

The financial provisions of the **Constitution Act**, 1996 differ in one important respect from those in the **Constitution Act**, 1993, in that the local sphere of government is now also entitled to an equitable share of the revenue raised nationally. In terms of Section 214 of the **Constitution Act**, 1996, municipalities:

- are entitled to an equitable share of revenue raised nationally to enable them to provide basic services and to perform the functions entrusted to them; and
- may receive other allocations from national government revenue, either conditionally or unconditionally with regard to the allocations of fiscal transfers from national government to municipalities, national government is obliged to first consult, *inter alia*, organised local government and the Financial and Fiscal Commission.



The equitable share is defined as the sum of unconditional transfers (formula-based and current transfers) that flows from national to local government. The Constitution of 1996 states that equitable share transfers cannot be conditional. However, in defining the amount of the equitable share, the full picture of transfers to municipalities, that is, conditional and unconditional, and capital and operating requirements need to be considered. What counts as local government's equitable share will also depend on what else it receives from the national fiscus for both operating and capital expenditure (Department of Finance, 1998 : 2).

In 1997, the Financial and Fiscal Commission (FFC), which was established in terms of Section 220 of the **Constitution Act**, 1996, published a document entitled "*Local Government in a System of Intergovernmental Fiscal Relations in South Africa*" that examined local government in the new system of fiscal relations between the three spheres of government. The said Commission interpreted Section 214 of the **Constitution Act**, 1996 that transfers of funds from national to local government should target the poor. These transfers should ensure that poor people have access to the basic municipal services and that should only be made to communities that cannot afford these basic services, for example, access to minimum safe water, adequate sanitation, solid waste removal, access to household energy and protection from flooding (Department of Constitutional Development, 1998 : 2).

An Act of Parliament as prescribed in Section 214 of the **Constitution Act**, 1996 has still to be passed which will *inter alia* determine the equitable division of revenue raised nationally among the national, provincial and local spheres of government. However, from the 1998/99 financial year onwards, the equitable share of revenue for local government will be phased in over a five to seven year period. Allocations will flow directly from the national to local government according to a set of objective formulae that embody the principles of equity (Municipal Basic Service (S) Transfer), efficiency (Tax Base Equalisation (T) Transfer) and democracy (Municipal Institutions (I) Transfer).

The intergovernmental transfers will provide municipalities, particularly the poorer ones, with resources to render basic services to poor households and enable them



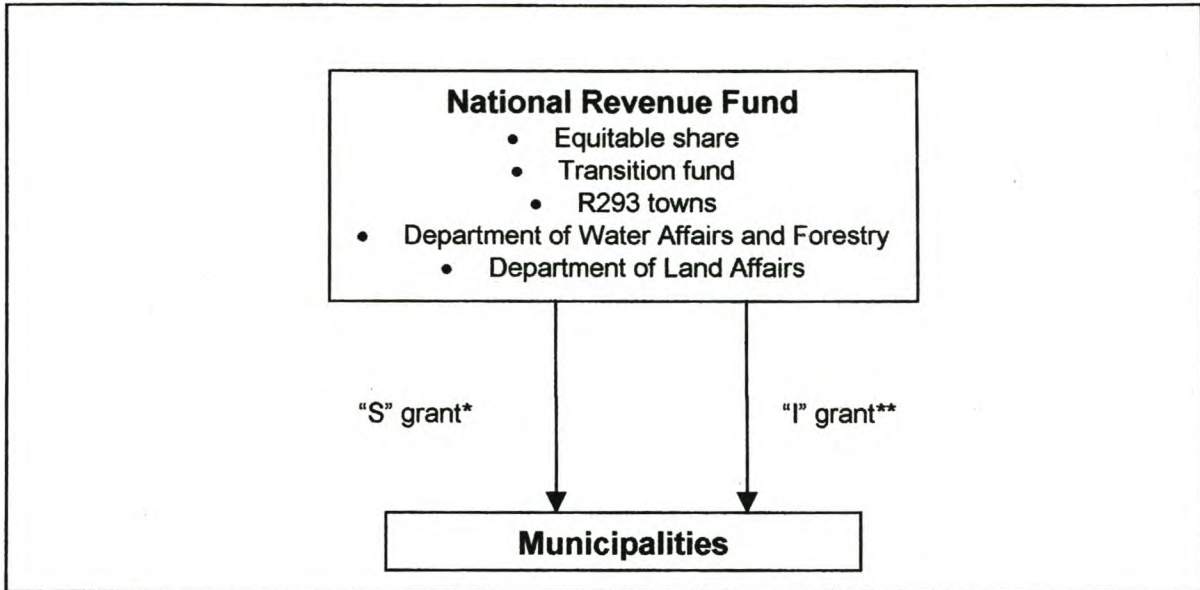
to build an administrative infrastructure. Rural and smaller urban municipalities will generally benefit from the new transfer system. It is these municipalities that are in the worst financial position and are in most need of support. Conversely, the impact of the new transfer system on the budgets of the losing municipalities will not be crippling as these changes will be phased in and should give these municipalities sufficient time to make the necessary adjustments. For the 1998/99 financial year all municipalities will not receive less than seventy percent of the amount received for intergovernmental transfers in the previous financial year (Department of Constitutional Development: Municipal Circular 1 of 1998 : 2).

The largest part of the formula aims to initially allocate an operating subsidy of eighty six rand per month for each household earning less than eight hundred rand per month, which will be fully phased in over five years in urban areas and seven years in rural areas, whereby allowing municipalities to sustainably provide an essential minimum package of services to all indigent households. As this is an unconditional grant, it will be up to the municipalities to establish their own mechanisms for passing this subsidy on to the poor and to determine appropriate targeting mechanisms for this purpose (Department of Constitutional Development: Municipal Circular 1 of 1998 : 2).

As the formula-based transfers are phased in, discretionary transfers will be phased out which include R293 town subsidies in respect of the previous Black local authorities, Local Government Transition Fund, Department of Water Affairs and Forestry operating subsidies and Department of Land Affairs operating subsidies, which will all be integrated into the equitable share and allocated directly to local government in line with the five to seven year phase in of the formula-based approach.

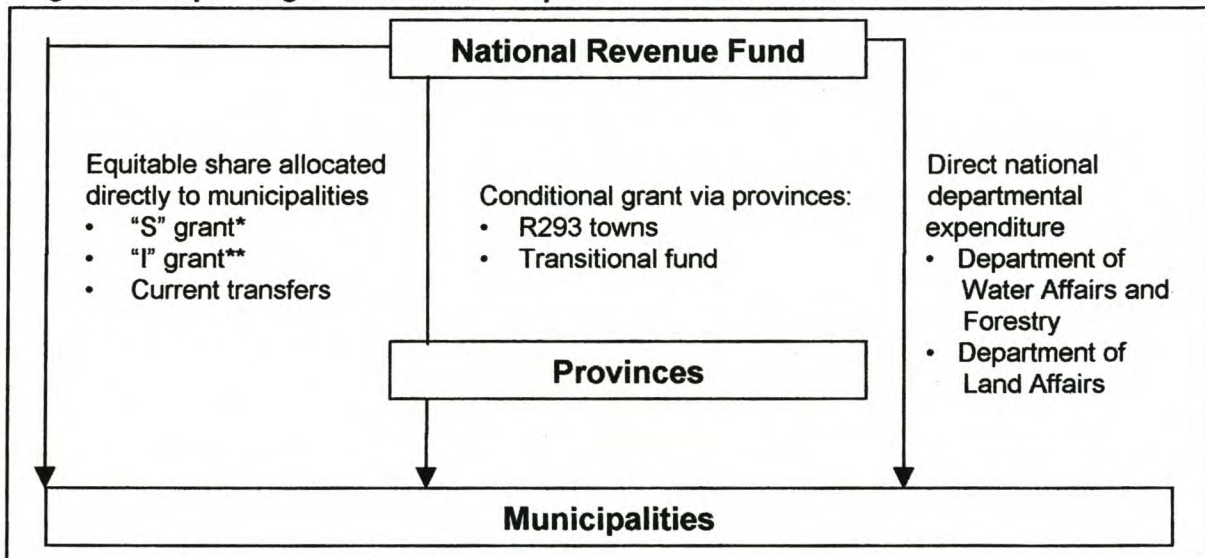
Figures 7.6 and 7.7 reflect how the system of formula-based transfers will be phased in (Department of Finance, 1998 : 2).



**Figure 7.6 : Operating transfers to municipalities – 1998/99 Financial Year**

\* Municipal Basic Services Transfers

\*\* Municipal Institutions Transfers

**Figure 7.7 : Operating transfers to municipalities – 2004/05 Financial Year**

\* Municipal Basic Services Transfers

\*\* Municipal Institutions Transfers

In terms of fiscal and financial arrangements, Section 215 of the **Constitution Act, 1996** stipulates that each sphere of government is responsible for its own financial affairs and arrangements. In this regard Sections 229 and 230 of the **Constitution Act, 1996** give municipalities considerable taxation and borrowing powers. However, it restricts municipal taxation powers by stating that they cannot "unreasonably prejudice national economic policies, economic activities across



municipal boundaries, or the national mobility of goods, services, capital or labour". In addition, municipalities are prohibited from levying income taxes, value-added taxes, general sales taxes or custom duties. The **Constitution Act**, 1996 allows municipalities to raise loans, but not for purposes of funding budget deficits, that is, municipalities cannot borrow money to cover shortfalls in their operating budgets.

In terms of Section 230 of the **Constitution Act**, 1996 a municipality may raise loans for capital or current expenditure in accordance with reasonable conditions determined by national legislation, but loans for current expenditure:

- may be raised only when necessary for bridging finance purposes during a fiscal year; and
- must be repaid within twelve months.

An important aspect regarding the funding of local government from revenue raised nationally is found in Subsection 227(2) of the **Constitution Act**, 1996 which stipulates that additional revenue raised by municipalities may not be deducted from their share of revenue raised nationally, or from other allocations made to them out of national government revenue. Equally, there is no obligation on the national government to compensate municipalities that do not raise revenue commensurate with their fiscal capacity and tax base.

With regard to the fiscal powers of a municipality, Subsection 229(1) of the **Constitution Act**, 1996 stipulates that a municipality may impose:

- rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
- if authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls, but **no** municipality may impose income tax, value-added tax, general sales tax or customs duty.



Income tax, value added tax, general sales tax and customs duties are imposed by the Government. Thus, South Africa has a centralised system of funding or grant allocation.

Turning to the present financial status of local authorities in South Africa, it can be stated that they are experiencing serious financial problems. To avoid a looming crisis, a number of steps need to be implemented, namely, the outstanding debt must be written off as local authorities will never be able to recover it, and the Government must provide assistance to the local authorities who have written off the outstanding monies (Koch, 1999 : 3 in Government Digest, Vol. 18, No. 10).

Local authorities in South Africa face tough years ahead, the main contributing factor being the prevailing culture of non-payment for municipal services. In 1998, three years after democratised and transparent local authorities are in place, the country's average payment level is less than five percent in disadvantaged areas. The call by the Government to improve payment levels has little effect on the masses, the reason being that politicians at local level are not fully supporting the Government's call to stamp out the non-payment culture (Tsedu, 1998 : 9).

With regard to financial management, local authorities are increasingly utilising the skills, management capacity and finance of the private sector to provide and upgrade public services and infrastructure (Koch, 1999 : 10 in Government Digest, Vol. 18, No. 9). The advantage of private sector participation is that because of competitive pressures, services are often delivered at both a lower cost and more effectively. Arrangements with the private sector are known as public-private partnerships and can take the form of ring fencing, that is, separating a certain service from the rest of the budget, service and management contracts, leasing, concessions and privatisation (Kwezimali, 1998 : 2-3).

In the 1996/97 financial year an amount of fifty million rand was provided on the budget of the Department of Constitutional Development for support to a number of projects for the provision of municipal services through public-private partnerships, which included water and sanitation, solid waste construction complexes and management of pleasure resorts (Unknown, 1997 : 45).



It can be stated that local government in South Africa is becoming increasingly dependent on funds from central and provincial governments, primarily due to the transformation process and the culture of non-payment for services.

It can also be stated that local authorities are looking at ways and means to alleviate their financial burdens by entering into public-private partnerships for the provision of facilities and services.

In conclusion, the fiscal arrangements and/or relationships between local government and the higher levels of government are prescriptive, that is, specified in various pieces of legislation. The central government also imposes limits each financial year with which local authorities may increase their budgets.

## 7.5 EVALUATION OF DECENTRALISED REFORMS

(8 tent)

In this section the decentralised reforms will be evaluated in respect of the criteria for comparison identified for the dissertation pertaining to South Africa.

### 7.5.1 POLITICAL SYSTEM

Unlike certain countries, such as, Germany, Nigeria and the United States of America, where the rights and status of local government are enshrined in the constitution, the South African system of local government has never had any form of constitutional safeguards prior to the interim Constitution of 1993. However, the **Constitution Act**, 1983 contained certain aspects which were unique to South Africa at the time in that it *inter alia* made provision for three Houses of Parliament which were divided according to population groups, which ethnic entities acted jointly on "general" affairs and singly on "own" affairs. This represented a shift from the pure unitary system of government to that of a consociation form of government to cater for a deeply divided society, however, with the exclusion of the Black population group.

The **Constitution Act**, 1996, as in the case of its predecessor the **Constitution Act**, 1993, makes the Constitution the supreme law in South Africa and, thus, any



law inconsistent with it is invalid. A Bill of Rights forms the cornerstone of the Constitution. Provision is made for three distinct spheres of government which are distinctive, interdependent and interrelated. The principle of co-operative governance underpins intergovernmental relations (Cameron, 1999 : 226).

The founding provisions of the **Constitution Act, 1996** *inter alia* make provision for the achievement of equality and the advancement of human rights and freedoms, non-racialism and non-sexism, the supremacy of the Constitution and universal adult suffrage, which principles were not encapsulated in the Constitution of 1983.

Furthermore, the **Constitution Act, 1996** contains the characteristics or features which are commonly found in federal constitutions, namely, it is written, there is a Bill of Rights, it provides for relatively autonomous provincial governments, the Constitution is supreme and the judiciary resolves disputes between governmental authorities or organs of state.

With regard to local government, the provisions of Section 151 of the **Constitution Act, 1996** are of particular importance which *inter alia* states that a municipality has the right to govern on its own initiative the local government affairs of its community, subject to national and provincial legislation provided for in the Constitution. It further stipulates that national or provincial government may not compromise or impede a municipality's right or ability to exercise its powers or perform its functions, which according to Cameron (1999 : 227) indicate a fundamental shift away from the system of provincial control over local government which has characterised South Africa's intergovernmental relations since 1910.

However, national legislation in the form of the **Local Government: Municipal Structures Act, 1998** and the **Local Government: Municipal Systems Bill, 1999** place constraints on local government in terms of their structures and or developmental and functional or operational activities.

The principles of co-operative government and intergovernmental relations which the three spheres of government and the state authorities operating within each



level must adhere to in terms of the **Constitution Act**, 1996 are based on mutual respect for one another's constitutional status and powers and functions, to promote mutual trust and good faith by consulting and supporting each other on issues of common interest, and by co-ordinating actions and legislation with one another.

South Africa is a combination of a developed and a developing country which, in concurring Hilliard (1993 : 12) adds that, although an advanced developing country, it nevertheless suffers from most of the maladies of developing countries, such as illiteracy, inadequate training, and a lack of skills and expertise. Developing countries usually have extensive centralisation because of the tendency of the leaders to build empires for themselves and their feverish desire to centralise all authority in themselves. In South Africa the main purpose of centralisation has also been to keep tight political control over subordinate authorities.

In terms of the liberal provisions of the **Constitution Act**, 1996, it can be stated that there should be a shift away from the foregoing scenario of centralisation of authority and power. However, the enabling legislation which has, and still is to be promulgated will play a major role in determining whether there will be a shift towards decentralisation and, in particular, the devolution of power from central government.

To conclude it can be stated that, in terms of the provisions of the **Constitution Act**, 1996, South Africa is a democracy with a unitary system of government which includes some federal characteristics or features.

Further, South Africa, can be classified as an advanced developing country primarily due to its infrastructure, urbanisation and existing skills in the field of science and technology.

The intergovernmental relations in South Africa are prescribed in its Constitution and are based on the principles of co-operative government.



## 7.5.2 LOCAL POLITICAL STRUCTURE

Traditionally South Africa has always had three levels of government, namely, central, provincial and local, the latter of which comprised single tier general-purpose local authorities in both urban and rural areas. It can be argued that the first attempt to create a two-tier structure was with the advent of the Regional Services Councils in 1985 with the purpose of *inter alia* providing certain services on a "district and metro-wide" basis.

In this regard, Humphries (1992 : 64) writes that the final report of the Thornhill Committee, which was appointed by the Council for the Co-ordination of Local Government Matters, firmly linked the future of certain Regional Services Councils with the introduction of metropolitan government. The Association of Regional Services Councils argued that they are already a form of metropolitan authority which can be transformed into a fully fledged metropolitan government.

However, despite this rhetoric, the Regional Services Councils took over limited regional functions (Cameron, 1993 : 426) and were always regarded by the Government as extensions of the primary local authorities (Cameron, 1993 : 421).

In terms of Section 155 of the **Constitution Act**, 1996 national legislation must determine the types of municipality to be established in the so-called Categories A, B and C, flowing from which the **Green Paper on Local Government**, 1987 was published culminating in the **Local Government: Municipal Structures Act**, 1998.

The **Green Paper on Local Government** (1997 : 41-43) provided four options for the proposed metropolitan government structures, namely, metropolitan legislature without statutory powers (voluntary agreements), single or multi-purpose service authorities (voluntary boards), two-tier system and the so-called "single city" (one tier), and also gives various options pertaining to district or rural government structures, namely, local municipalities (two-tier), representative municipalities (two-tier), primary district tier (one tier) and amalgamated municipalities (two tier).

However, in terms of the **Local Government: Municipal Structures Act**, 1998, a metropolitan area **must** have a single tier municipal structure, that is, the so-called mega-city. In other words, the said Act does not provide for any options for



local government structures in metropolitan areas, but for the “single” or “mega-city”. The said Act also stipulates that an area which does not comply with the criteria for the establishment of a “single city” authority in a metropolitan area, **must** have municipalities of both category B (local) and category C (district), that is, a “two-tier” structure. In other words the said Act also restricts the options for local government structures in non-metropolitan areas.

It can, therefore, be stated that the Government by enforcing a single tier local government structure in metropolitan areas has ignored the key objectives and values of decentralisation and primarily based its strategies on the equitable distribution of goods and services, which can be achieved by a unitary authority. What remains to be seen is the powers, if any, which will be decentralised to the internal outlying structures of these unitary authorities which the provincial governments are empowered to establish in terms of Section 8 of the **Local Government: Municipal Structures Act, 1998**.

Furthermore, it can be argued that local government in South Africa forms a relatively weak level of representative government in relation to, in particular, the central government in that it has negligible influence at the higher levels of government, is constrained in terms of its internal structures, developmental and operational activities as well as sources of finance.

Finally, it can also be stated that the provisions of the **Local Government: Municipal Structures Act, 1998** concerning the options for the final local government structures which still need to be established, are restrictive.

### 7.5.3 LOCAL FUNCTIONS

Local authorities in the former White areas received little financial assistance from the higher levels of government for the execution of their functions. However, in all but the largest Black local authority areas, a White neighbouring local authority would provide services such as health, ambulance and fire brigade to the Black community, for which it was reimbursed by the central government (Solomon, 1988 : 88). This was due to the fact that the Black local authorities were administratively constrained, financially weak and politically controversial.



The trend towards the centralisation of power certainly characterised the re-organisation of local government in South Africa although the then Government claimed that a devolution of power is to accompany the re-organisation. Under the Regional Services Council system, most of the more important city-wide services and functions were removed from direct electoral control, and were placed under an administrative body which comprised representatives from the elected authorities, and a government appointed chairperson (Watson, 1988 : 174). However, there has been a tendency on the part of the previous Government to delegate functions to local government and to instruct that these functions be implemented, examples of which are civil protection, health, slum clearance, housing and regional services levies (Craythorne, 1990 : 452).

The allocation of functions to local government is determined by the central government and is dependent on the available financial resources. Local authorities are obliged to perform the functions prescribed for them by Acts of Parliament, for example, the **Local Government Transition Act**, 1993 and the **Constitution Act**, 1996.

In terms of Section 156 of the **Constitution Act**, 1996 the functions and powers of municipalities are split into two functional areas, namely, of concurrent national and provincial competence and of exclusive provincial legislative competence. Further functions must be assigned to a municipality by agreement provided that such functions can be effectively administered locally and if the local authorities have the capacity and resources to perform the functions, that is, functions which can and need to be executed close to the people.

However, the definition of "municipal services" in the **Local Government: Municipal Systems Bill**, 1999 includes each and every function a municipality is competent to perform in terms of Section 156(4) of the **Constitution Act**, 1996, that is, including Parts A of Schedules 4 and 5, which implies that the higher spheres of government could force municipalities to carry out one or more of these functions without mutual agreement, which in turn is not conducive to certain of the objectives and values of decentralisation.



In South Africa the decentralisation policies and strategies of the Nationalist Party have been to devolve functions to local government, which were primarily politically motivated and generally failed to materialise. It can be stated that functions have been delegated to local government by the higher levels of government which are performed on an agency basis in terms of either national or provincial legislation.

Furthermore, the Constitution of 1996 stipulates that the central or provincial governments must allocate further functions to local government if they have the capacity and financial resources to effectively execute such functions. However, if local authorities are not in a position to adequately perform their developmental role, the said Constitution provides that the higher level of government must take over the function/s which, in fact, entails the centralisation of authority and power.

Finally, local authorities in South Africa have privatised a number of functions either by outsourcing or entering into public-private partnerships for the provision of certain services and facilities.

#### **7.5.4 LOCAL FINANCE**

Grants or subsidies have always formed an insignificant part of local government funding, and were confined to ambulance, conservation, fire brigade, health, libraries, housing and proclaimed roads. There are, however, other sources of funds from provincial and central level which are not classified as subsidies, but reimbursements in respect of the expenses of functions carried out by a local authority as agent for the higher levels of government (Solomon, 1988 : 88). Although the sources of revenue of local authorities have been prescribed, it is a characteristic of South African local authorities that they obtain their own income and they are dependent upon the provincial authorities and the state for income only to a limited extent (Cloete, 1988 : 260).

Cloete (1988 : 260) continues that one of the principal sources of revenue of South African local authorities is the rates which they are allowed to levy upon immovable property. The conditions under which these rates may be levied as well as the procedures to be followed with the valuation of properties for purposes of assessing rates are laid down in the relevant ordinances of the various provinces.



The most prominent form of centralisation was the greater macro economic control by the Department of Finance over expenditure of local authorities. Since 1982/83 the Department of Finance has exercised macro-economic control over local authorities' operating and capital expenditure by setting a maximum percentage level permissible increase in expenditure over the previous years budget (Cameron, 1995 : 407).

Jonker (1988 : 55) concludes that local authorities have continuously been complaining that, with the restricted and unpopular tax base, they cannot be assured of an adequate income in the light of economic circumstances. Instead of providing local authorities with relief, the higher levels of government have delegated further functions without the necessary financial compensation.

Thus, it can be stated that local authorities in South Africa are experiencing financial problems and face tough years ahead, the main contributing factors being the transformation of local government, the socio-economic conditions and the prevailing culture of non-payment for municipal services.

In South Africa, unlike is the case of many other developed or developing countries, grants from central and/or provincial governments form an insignificant part of the municipal budget which can be primarily attributed to the revenue local authorities receive from the supply of electricity and water. Further, central government imposes stringent financial controls on local government, which controls are usually imbedded in various legislation.

## **7.6 SUMMARY**

South Africa has traditionally always had a highly centralised system of government primarily due to the unitary nature of the state. Local government is, therefore, subordinate to central and, in particular to provincial government under whose control and supervision its activities are being executed. Furthermore, the subordination of the non-White local authorities dampened and restricted their development and also made them dependent on the neighbouring White local authorities.



Local government in South Africa underwent a number of decentralised reforms in the 1980's with the introduction of new structures, such as Black local authorities and Regional Services Councils. The purpose of these structural reforms was ostensibly to devolve power, deconcentrate administration and to reduce administrative control over local government. The constitutional changes of 1983 still did not enshrine the rights and status of local government. There was, however, a shift from a pure unitary system of government to a consociation form of government which excluded the Black population group.

The process of transforming local government gained momentum in 1993 with the establishment of the National Local Government Negotiating Forum which negotiated a framework for guiding local government transition, culminating with the promulgation of the **Local Government Transition Act, 1993** which *inter alia* makes provision for local government to be transformed in three phases, of which the final phase is to be implemented after the municipal elections which are scheduled for the end of 2000.

In the meanwhile the Constituent Assembly drafted a new Constitution for the Republic of South Africa which was enacted in December 1996. The **Constitution Act, 1996** *inter alia* stipulates the developmental duties and co-operative role of municipalities, which is a shift from the traditional operation of local authorities under the previous dispensation. The said Constitution also enshrines local government as a sphere of government and gives municipalities the right to govern the affairs of their communities without being compromised or impeded to do so by either the central or provincial governments, which is a fundamental shift away from the system of provincial control over local government which characterised the Country's intergovernmental relations since becoming a union in 1910.

Notwithstanding the foregoing, the said Constitution provides that the higher level of government shall take over decentralised functions of local authorities or municipalities if they cannot adequately perform such functions. Furthermore, the **Local Government: Municipal Structures Act, 1998** *inter alia* gives provincial governments the power to determine the internal structures of local authorities and the **Local Government: Municipal Systems Bill, 1999** prescribes the framework within which local authorities are to conduct their developmental and operational activities.



The **Local Government: Municipal Structures Act**, 1998 restricts the forms of local government structures to be established in metropolitan areas, that is, category A or single-tier municipalities, which is contrary to the key objectives and values of decentralisation. In non-metropolitan areas the said Act prescribes that only a "two-tier" structure be established comprising category B or district municipalities and category C or local municipalities.

The process of demarcating these new municipal areas commenced in 1999 whereupon further substantial restructuring of the transitional local authorities, in particularly the metropolitan areas, will take place for implementation after the ensuing municipal elections. The final restructuring process entails a drastic reduction in the number of local authorities thereby taking government even further away from the local populace and in so doing centralising authority and power in large local governments.

In the next chapter a comparative evaluation of the decentralised reforms in the selected developing countries and South Africa will be made in respect of the criteria identified for this dissertation.



Barle, Daniel George

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## **CHAPTER 8**

### **COMPARATIVE EVALUATION OF DEVELOPING COUNTRIES**

#### **8.1 INTRODUCTION**

In this chapter a comparative evaluation will be made of the decentralised reforms in respect of the criteria identified for the dissertation between South Africa and the two selected developing countries, namely, Botswana and Nigeria, with the view to determining the reasons for the failures and successes of local government in these countries which situation should in turn either be avoided or implemented in the South African context.

The purpose of the comparative evaluation is furthermore to gain a perspective of the differences, similarities, trends and factors which have impacted on local government since the said countries gained independence from Britain in the 1960's, some of which decentralised reforms can be of relevance in formulating an effective system of local government for South Africa.

In the ensuing sections of this chapter the criteria identified, namely, political systems, local political structures, functions and finance in respect of the three countries will be compared and evaluated, whereupon a conclusion will be drawn of the experiences or lessons.

#### **8.2 POLITICAL SYSTEMS**

In Africa where most countries have experienced a combination of political upheaval and economic decline, Botswana has enjoyed political stability and economic prosperity. The political stability is primarily linked to the continuing dominance of one party, namely, the ruling Botswana Democratic Party which has comfortably won six 'free and fair' elections since independence in 1965 (Reilly & Tordoff, 1993 : 176).



Likewise, in South Africa the then National Party dominated the White minority population group elections from 1948 to 1983, and from 1983 to 1993 dominated the Coloured and Indian population groups in Parliament. Since the first truly democratic elections in 1994, the African National Congress was the dominant party, gaining almost a two-thirds majority in the elections held in 1999 (Chapter 2 : subsections 2.2.1.2 and 2.3.3).

Hague & Harrop (1987 : 60) describe the political system found in developing countries known as "competitive oligarchy" as an important transitional stage in the political development of many societies, as they move away from purely traditional rule. In a competitive oligarchy the structure of leadership has become both complex and variable and the content for power is fairly open and legitimate, however, mass involvement in the political system remains distinctly limited.

Flowing from the foregoing, Picard (1979 : 305) writes that three recent studies of Botswana revealed that political élites are content to leave the making of decisions mainly to administrators with whom they share a number of socio-economic characteristics. They are all members of a well educated minority that controls much of the cattle industry and related sectors in the domestic economy. Hague & Harrop (1987 : 61) add that the competitive oligarchy rests upon a passive social base and is essentially the political projection of dominant economic élites. As the social structure changes, and in particular as the cities grow and rural isolation diminishes, the political system undergoes change. With increased pressure from below, political systems that never were liberal have become authoritarian rather than democratic in most cases (Chapter 2 : subsections 2.2.1.2 and 2.3.3).

Botswana inherited the British unitary system of governance, the deconcentrated system of district administration, and a system of local government which was modelled on that of its former colonial power (Picard, 1979 : 283). Representative local government has survived in Botswana, and has even prospered within the country's political framework. This is no



mean achievement if Botswana's record is compared with that of the majority of other commonwealth African states which drew upon the British local government tradition (Tordoff, 1988 : 183).

The Constitution of Botswana which became effective on 30 September 1966 does not make provision for the local sphere of government (Kurian, 1998 : 88). In concurring, Wunsch (1999 : 5) writes that as Botswana is a pure unitary state, local government has no constitutional status and is thus a statutory creation (Chapter 3 : section 3.3 and subsection 3.6.1).

Thus, Botswana is a unitary state which is governed by economic and political élites and, as such, complies with the characteristics of a competitive oligarchy. The stability in the country can be ascribed to its homogeneous population which primarily comprises the Setswana tribe, the small population of approximately one and half million spread over five hundred and eighty two thousand square kilometers and its cattle industry and mineral resources. It can be added that both Nigeria and South Africa are also large countries who to a large extent rely on their mineral wealth. However, their populations are heterogeneous and much larger.

It can be stated that although Botswana is a parliamentary democracy, the principles of democracy do not apply in all respects, particularly, in view of the fact that the country is ruled by minority economic and political élites. With regard to the impact of the unitary system of government on local government, it can be stated that government agencies play a dominant role in its affairs and, as such, the degree of decentralisation is limited and takes the form of deconcentration. Furthermore, the Constitution of Botswana does not include local government as a sphere of government, which implies that the rights and status of local authorities are not guaranteed or protected.

Turning to Nigeria, Aborisade & Mundt (1995 : 204) write that the thirty four years of governance in Nigeria were shared between the civilian and military regimes in the proportion of nine years for civilian administration and twenty five years for military direction. The implications of this situation is that



Nigeria is experiencing unstable government which permeates all spheres of government (Chapter 2 : subsection 2.3.3).

Humes (1991 : 147) states that the Federal Constitution of Nigeria which was adopted in 1979 concentrated authority at the federal level, left the states with concurrent but no exclusive powers and recognised local government as a constitutional sphere of government. The Constitution of 1979 guaranteed democratically elected local government councils and granted local authorities specific principal and shared responsibilities. Gboyega (1995 : 10) adds that the political authority of local authorities has been enhanced by the entrenchment of their names in the **Local Government (Basic Constitutional and Transitional Provisions) Decree, 1989 (Decree No. 15)**. The effect of this is that the territorial boundaries of local authorities are protected against arbitrary alterations, and any alteration thereto is subject to constitutional amendments (Chapter 2 : subsection 2.4.2.2 and Chapter 4 : section 4.3).

Thus, unlike the case in Botswana, the rights and status of local authorities in Nigeria are protected by the provisions of a written Constitution.

However, the Nigerian experience of local government decentralised reform, particularly during the Second Republic is an illustration of how governing élites can manipulate and pursue policies which are completely different from the publicly enunciated goals of local government, even to the extent of circumventing constitutional provisions to suite their own selfish political interests (Asibuo, 1991 : 124).

It can be stated that South Africa, as in the case of Botswana and Nigeria, was governed by a White minority political élite from 1948 to 1993, and it is becoming apparent, particularly after the 1999 elections, that the country is being governed by a group of African élites, the so-called "inner circle".

Mahler (1995 : 364) writes that Nigeria has faced a number of challenges to its development, most especially a crises of national legitimacy caused by



ethnic and tribal identities frustrating the development of a sense of national identity. In this respect, Nigeria is typical of many developing nations, and it is consistent with the challenges facing such nations with regard to political development and modernisation (Chapter 4 : subsection 4.5.1).

Likewise, South Africa suffered political instability, particularly during and after the uprising in the townships in 1976, which led to a number of decentralisation initiatives from the then Nationalist Government, which included the introduction of community councils in these areas in 1977. However, they were viewed by their constituents as instruments of apartheid and thus proved to be illegitimate (Heymans & White, 1991 : 5). It can be argued that the decentralised reform policies of the Nationalist Government were attempts at bringing political stability to the country. A further such attempt was the Constitution of 1983 which contained elements of a consociation system of government which were introduced to address the deeply divided societies in the country (Chapter 7 : subsection 7.3.1).

The numerous civilian and military regimes which have been in power in Nigeria since 1966 have implemented too many drastic changes and reforms to the system of local government, whose functions have increased and decreased, budgets have risen and fallen, staffing has changed from being answerable to chiefs to being dependent on ministries, and authority has shifted from chiefs to representative elected institutions to direct military rule (Humes, 1991 : 37).

In South Africa there were a few minor changes affected to the system of local government prior to 1994. These decentralised reforms were primarily racially based and provided local structures for the Black, Coloured and Indian population groups. Cloete (1995 : 3) adds that although in most communities local councils were elected in separate racial elections, these elected local governments did not enjoy the support of the majority of residents in their areas. Elections were boycotted by Black political liberation movements and civic associations. Local government was *de facto* controlled by the White system without effective participation by the



other groups. This was on par with the position at national level and it became increasingly unacceptable to the Black communities in South Africa.

The negotiations that led to the abandonment of apartheid, the introduction of the interim **Constitution Act**, 1993 and South Africa's first national democratic elections in 1994 were the result of a political compromise between the National Party and the African National Congress (Pycroft, 1996 : 234). The said Constitution *inter alia* made provision for autonomous local government and showed many features of federalism (Cameron, 1996 : 20). The **Local Government Transition Act**, 1993 provided the foundation for the decentralised reform of local government based on the principles of non-racialism, democracy, accountability and one tax base (Swilling & Boya, 195 : 175).

The major constitutional development of South Africa involved the transformation of the system of local government in terms of the provisions of the Constitutions of 1993 and 1996 and the **Local Government Transition Act**, 1993. The local government transformation led to a new local government system in all the nine provinces which started coming into effect after members of the transformed local councils were elected in 1995 and 1996 (Cloete, 1997 : 35) (Chapter 7 : subsections 7.4.1 and 7.5.1).

In view of the foregoing, it can be stated that the systems of local government in Nigeria were reformed whenever a new regime took power, whilst the system of local government in South Africa underwent significant decentralised reforms after the first democratic national elections in 1994. Further, it can be stated that in both Nigeria and South Africa, the rights and status of local government are enshrined as a sphere of government in their Constitutions, even though in the case of the former country these have been violated by the federal and state governments.

South Africa is by tradition a unitary state, the status quo of which was retained by the interim Constitution of 1993 and the Constitution of 1996 (Cloete, 1997 : 19). In terms of Section 1 of the **Constitution Act**, 1996 the



Republic of South Africa is one, sovereign, democratic state founded on the following values:

- human dignity, the achievement of equality and the advancement of human rights and freedoms;
- non-racialism and non-sexism;
- supremacy of the Constitution and the Rule of Law; and
- universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

The foregoing founding provisions of the **Constitution Act**, 1996 comply with the objectives and values of decentralisation in a democratic state, namely, nation-building, freedom, responsiveness and accountability, political participation and social and economic development (Chapter 2 : subsections 2.2.1, 2.2.4 and 2.4.2.1).

It should, however, be pointed out that the present Government's allies or partners in the 1994 and 1999 general elections were the South African Communist Party and organised labour, namely, the Confederation of South African Trade Unions (COSATU) whose approach or philosophy to government is centralistic and not democratic with the concomitant devolution of powers.

It, therefore, remains to be seen whether the "hard fought" democracy in the new South Africa will be maintained and whether the liberal provisions of the **Constitution Act**, 1996 can be applied by a developing country for a significant period of time. Hilliard (1993 : 12) writes that developing countries usually have extensive centralisation because of the tendency of the leaders to build empires for themselves and their desire to centralise all authority in themselves. In South Africa the main purpose of centralisation has also been to retain control over subordinate authorities, such as municipalities.



In concurring, Welsh (1994 : 245) adds that in the African context, constitutionalism has not survived. Well-crafted constitutions in most cases did not survive for long after independence: one-party systems, often embodying a continuation of the authoritarian tradition of colonial rule, subverted the spirit of multi-party democracy and in many states human rights violations occurred on a distressing scale. Welsh (1994 : 249) continues that South Africa, however, possesses some characteristics that set it apart from most other African states. It has a substantially more developed economy and a more highly urbanised population, a stronger and more vigorous civil society, significantly bigger and economically more powerful non-African minorities, and a configuration of African ethnic categories in which no single one constitutes an overall majority.

Thus, it can be stated that the unitary system of government in Botswana works due to the prevailing stability in the country which can largely be ascribed to its homogeneous population. The federal system of government in Nigeria does not work due to instability in the country which has *inter alia* been attributed to ethnicity, religion, civil war, economic inequalities, military coups d'état and the lack of political will. In South Africa the unitary system of government has been in place since 1910. The written Constitution of 1996 has several federal features, such as, relatively autonomous provincial and local governments, bill of rights and the supremacy of the constitution.

Therefore, despite inheriting the forms, patterns and traditions of *inter alia* the systems of local government from its colonial power, Britain, Nigeria and South Africa did not adopt a pure form of unitary government, which *inter alia* can be ascribed to the diverse cultural, demographic and social conditions prevalent in the two countries.

It can be stated that the geographic and demographic conditions of the subject developing countries are similar. However, the socio and cultural conditions vary considerably in that, *inter alia*, in Nigeria and South Africa there exist numerous ethnic groups, whilst Botswana comprises one dominant group, namely, the Setswana. Furthermore, the political conditions



differ substantially with, at the one end of the spectrum, Botswana with its stable conditions and at the other end, Nigeria with its political instability and turmoil.

It can also be stated that Botswana's system of government complies with the characteristics of a competitive oligarchy, Nigeria has been ruled by military regimes for most of the period since independence, and South Africa can, since the 1994 general elections, be regarded as a democratic state.

Todaro (1985 : 28) writes that the characteristics of developing countries can be classified into the following broad categories, namely:

- low levels of living;
- low levels of productivity;
- high rates of population growth and dependency burdens;
- high and rising levels of unemployment and under-employment;
- significant dependence on agricultural production and primary product exports; and
- dominance, dependence and vulnerability in international relations.

Heady (1979 : 271-274) adds the following characteristics or features which are indicative of developing countries, namely:

- the systems of governance of former colonies will in almost all cases resemble that of the colonial power, that is, the system will be imitative rather than indigenous;
- there is a shortage of skilled and trained administrators with management capacity, developmental skills and technical competence;
- corruption is prevalent on a scale running from payments to petty officials for facilitating a minor transactions to bribes of impressive dimensions for equally impressive services;
- nepotism is prevalent;
- widespread discrepancy between form and reality; the gap between expectations and realities can be partially marked by, for example,



enacting laws which cannot be enforced or announcing a programme for decentralisation while keeping control of decision-making at central level.

Botswana and Nigeria conform with most of the foregoing features of developing countries. South Africa is a combination of a developed and a developing country. Hilliard (1993 : 12) adds that, although an advanced developing country, South Africa nevertheless suffers from most of the maladies of developing countries, such as illiteracy, inadequate training, low levels of productivity, lack of skills, high population growth and high levels of unemployment (Chapter 2 : section 2.3).

Flowing from the foregoing, it can be stated that Botswana and Nigeria are developing countries and South Africa can be classified as an "advanced" developing country primarily due to the existing expertise in the fields of industry, science and technology, more developed economy and urbanised population.

It can be stated that Botswana, Nigeria and South Africa are to a large extent dependent on their mineral resources, such as diamonds, oil and gold for their revenue, and in the case of Botswana and South Africa also on agriculture. It should be added that a significant drop in the price of diamonds and crude oil will negatively impact on the size of the government grants made to local authorities in respectively Botswana and Nigeria.

Turning to the relations between the central and local governments in Botswana, Sharma (1999 : 75) is of the opinion that they have grown within a framework of freedom and multi-party democracy. Although the local authorities have grown considerably since independence in terms of their human resources, functions and finance handled by them, their overall capacities remain limited in terms of providing services, planning and implementing development projects and assuming additional responsibilities. The central government, thus, continues to play a dominant role in the growth and functioning of local government.



With regard to the implementation of the Executive Federal Presidential System of Government at the local government level in Nigeria in 1991 and its impact on intergovernmental relations, Oyelakin (1995 : 38-39) writes that a large measure of autonomy has been accorded to local government to enable it to acquire a distinct identity of its own as the effective third level of government and to give in the wherewithal to energise sustainable national development starting from grassroots. However, each local authority remains part and parcel of the state in which it is located just as the state remains an integral part of the Federation. Local authorities must, therefore, operate strictly within the laws of the land and in consonance with national philosophy, goals and aspirations.

In South Africa, both the central and provincial governments have the legislative and executive authority to ensure the effective execution of functions by local authorities by regulating municipal executive authority, which powers are considerable and allow for a large degree of intrusion on the fiscal, functional and institutional terrains of local government (Primstone, 1998 : 3). It would appear that local government is increasingly been seen as a point of integration and co-ordination for the delivery of national programmes (Reddy, 1999 : 210) (Chapter 2 : subsection 2.4.3).

In conclusion, it can thus be stated that in Botswana, Nigeria and South Africa intergovernmental relations are dominated to varying degrees by the higher level/s of government. Furthermore, local government in these countries is seen to be vehicle for the implementation of national government policies and programmes at grassroots level.

### **8.3 LOCAL POLITICAL STRUCTURES**

Since Botswana gained independence in 1966 there has been more transfer of power and authority and responsibility to the local authorities, especially to the urban and rural councils, on a consistent basis than in most African countries. The Botswana model was one of gradual evolution, with only



comparatively minor reversals. The key to this has been the responsible distribution of powers and functions between the four forms of local institutions, namely, tribal administration, councils in urban and rural areas, land boards and district administration (Egner, 1986 : 39).

The powers of the chiefs, that is, tribal administration in Botswana was severely eroded since independence by the introduction of various legislation which transferred their powers and functions to the district councils and the land boards. Similarly in the previous Northern Region of Nigeria where the native authorities were powerful, the military regime in 1966 introduced measures at diffusing the power of the traditional rulers (Chapter 3 : subsection 3.4.1 and Chapter 4 : subsections 4.4.1.3 and 4.4.2.1.1).

The district commissioners in both Botswana and Nigeria wielded considerable power over local authorities in the early post independence era. The powers of the district commissioners in Botswana have since been considerably reduced and now deal primarily with development planning in the rural areas, whilst in Nigeria this form of decentralisation of power no longer exists since the first military regime under General Ironsi took power in 1966 (Chapter 3 : subsection 3.4.5 and Chapter 4 : subsection 4.4.2.1.1).

However, the traditional rulers or chiefs still exercise considerable influence on the tribal people in rural areas in providing leadership in maintaining customs and traditions, serving as spokespersons for their tribes on issues of a traditional nature and presiding over customary courts in Botswana, Nigeria and South Africa.

Furthermore, in terms of Section 212 of the **Constitution Act**, 1996, national legislation in South Africa may provide for a role for traditional leadership as an institution at local level on matters affecting local communities. Flowing from this constitutional provision, it should be noted that the tribal chiefs in Botswana are required to become members of the public service (Chapter 3 : subsection 3.4.1.6).



In Botswana local government comprises one tier with four forms of institutions. The councils in urban and rural areas are representative general-purpose authorities, the tribal administration and land boards can be classified as quasi-representative single-purpose institutions and the district administration as a non-representative single-purpose institution (Chapter 2 : subsection 2.5.1 and Chapter 3 : section 3.4).

It can be argued that due to the demographic, geographic and socio-economic conditions as well as the sparse population, there is no need for more than one tier of local government in Botswana.

It can be stated that local government in Botswana forms a weak level of government in that it has limited powers and responsibilities, it has a negligible influence on central government, is heavily dependent on central government for financial resources, is unimportant in terms of population and economic development and is weak in terms of democratic functions and accountability for service delivery.

In support of the foregoing, Wunsch (1999 : 15) writes that the Ministry of Local Government, Land and Housing is the "parent" ministry of all the local institutions in Botswana and plays a key role in virtually every aspect of local government, which includes the control and supervision of decisions regarding local staff; budgeting; development planning; self-help projects; ensuring conformity with national policies and priorities; providing training; developing new sources of revenue; and developing new managerial systems and procedures (Chapter 2 : subsection 2.5.2).

Thus, the model of local government in Botswana can be classified as being centralised, which according to Leemans (1970 : 56), in many of the developing countries seems to be preferred where the local representative element is often too weak, incapable and inexperienced to assume a leading role in policy-making and administration.



The Botswana government, nevertheless, remains committed to extending representative local government. However, it has put greater emphasis on the deconcentration of administrative authority than on political devolution (Reilly & Tordoff, 1993 : 181). In Botswana, therefore, decentralisation takes the form of deconcentration which is primarily undertaken by way of the district administration, that is, district commissioners. This form of decentralisation is predominant in countries with a unitary system of government whereby the control of the local level of government is by virtue of the centralised control of power and authority (Chapter 2 : subsection 2.2.3.1).

Turning to Nigeria, the structures of local government varied considerably since independence in 1960. During the First Republic, each region had its own system of local government, that is, various tiers and types. In the 1970's local government structures began to change as the western states instituted the American Council-manager system of administration and the northern states strove to weaken the powers of the traditional rulers, that is, as was the case with the tribal administration in Botswana (Wright, 1993 : 620). Some of the states in the former Eastern region opted for a system of deconcentration which can be compared to the French Prefectoral system (Olowa, 1982 : 347). The 1976 reforms introduced a radical departure from the two and three tier structures of local government which existed during the First Republic. It established throughout Nigeria a single-tier of general-purpose local authorities, each serving a population of between one hundred and fifty and eight hundred thousand (Ola, 1984 : 89).

It can be argued that due to the fact that the rights and status of local government were not protected in a constitution in Nigeria prior to 1979 and the fact that a military regime took power in 1966, the multiple tier system which existed prior to and during the First Republic was abolished. Nigeria has since struggled with a single tier local governmental structure by continually changing the number of local authorities (Chapter 4 : subsections 4.4.1.1.1, 4.4.1.2.1, 4.4.1.3.1 and 4.4.2.1.1).



According to Olowu (1982 : 347) the purpose of the local government reforms of 1976 was to *inter alia* define and prescribe local government as the third level of governmental authority and administration throughout the country. Smith (1983 : 53) adds that one of the objectives of the said reforms was to make services and developmental activities responsive to local wishes by devolving or delegating powers to representative local authorities (Chapter 2 : subsections 2.3 and 2.2.4).

However, due to the political instability in Nigeria, neither of the foregoing objectives nor the provisions of the 1979 Constitution pertaining to local government materialised.

The implementation of the Executive Federal Presidential System of Government at the local government level in Nigeria in May 1991 in terms of the provisions of the **Local Government (Basic Constitutional and Transitional Provisions) Decree**, 1989 in essence provides for the clear separation of powers with the chairperson of local government, deputy chairperson and supervisors constituting the executive, while the legislative consists of the leader of the local government council, the deputy leader and councillors (Oyelakin, 1995 : 31).

Thus, it can be stated that local government in Nigeria comprises a single tier of non-representative general-purpose authorities, that is, non-representative for most of the time since independence. Furthermore, local government forms a weak level of government in that it suffers from maladies similar to those experienced in Botswana, though to a greater extent.

The model of local government in Nigeria can be classified as being centralised in that the federal (central) forms a strong sphere of government, whilst the states (provincial) form a weak sphere of government in that the Constitution of 1979 does not give any exclusive powers to the states.



Local government in Botswana and Nigeria forms a weak sphere of government and, as such, it complies with the characteristics of a centralised model of local government. In both countries the local level of government comprises one tier of predominantly general-purpose authorities (Chapter 2 : subsections 2.5.1 and 2.5.2).

The establishment of the Republic of South Africa with effect from 31 May 1961 under the **Republic of South Africa Constitution Act**, 1961 brought about no change to the single-tier general-purpose system of local government existing in the then four provinces (Cloete, 1988 : 239).

The only decentralised structural reforms of significance to local government in South Africa prior to the first non-racial elections in 1994 was implemented in terms of the **Regional Services Council Act**, 1985 which established councils whose principal objects were to broaden the democratic base, to provide bulk services and to arrange for works which were beyond the means of individual local authorities in their areas as well as to develop and provide services in areas where the need is the greatest (Cloete, 1988 : 265). These councils were seen as parallel, or on the same tier as the local authorities (Chapter 7 : subsection 7.3.2).

Section 155 of the **Constitution Act**, 1996 determines that national legislation must define the structure or type of municipalities that may be established in each of the following categories:

- Category A: A municipality that has exclusive municipal executive and legislative authority in its area.
- Category B: A municipality that shares municipal executive and legislative authority in its area with a Category C municipality within whose area it falls.
- Category C: A municipality that has municipal executive and legislative authority in an area that includes more than one municipality.



The national legislation which was promulgated in this regard is the **Local Government: Municipal Structures Act**, 1998 which enforces a single or unitary authority in a Category A or metropolitan area and a “two-tier” system in respect of non-metropolitan areas (Chapter 7 : subsection 7.4.2.3).

Thus, after the municipal elections scheduled towards the end of 2000, local government in South Africa will comprise single-tier representative general-purpose authorities in metropolitan areas and a “two-tier” system of representative general-purpose authorities in non-metropolitan areas consisting of district councils and municipalities (rural towns).

It can be stated that local government in South Africa forms a relatively weak level of government in relation to, in particular, the national government in that it has limited influence at the higher levels of government, is constrained in terms of its developmental and operational activities and structures as well as its systems, that is, in terms of the **Local Government: Municipal Systems Bill**, 1999 and financial resources.

The model of local government in South Africa can be classified as a mixture between centralised and federal in that the central government forms a strong level whilst provincial and local governments form relatively autonomous levels of government (Chapter 2 : subsections 2.5.1, 2.5.2 and 2.5.3).

## 8.4 LOCAL FUNCTIONS

Tribal Administration in Botswana has lost considerable powers and functions in Botswana since independence in 1966 which, according to Reilly & Tordoff (1993 : 155) can be ascribed to political factors and the process of democratisation. The primary function of the chiefs is to administer the customary law. The powers and functions of District Administration, that is, district administrators or commissioners, also dwindled since independence to such an extent that at one stage their primary functions were to preside over local courts and to render assistance to government officials in the districts.



However, the role and status of District Administration was enhanced in the 1980's by making them responsible for district development and planning issues. The primary function of Land Boards is to allocate land for commercial, residential, arable and grazing use.

The most important statutory functions of councils in rural areas (district councils) in Botswana are the provision of primary education, basic health services, rural roads, domestic water and community development (Reilly & Tordoff, 1993 : 158-161). Other statutory functions of district councils are sanitation, markets, abattoirs and remote area development. In addition to the foregoing, the councils in urban areas provide public housing and electricity (Egner, 1986 : 20).

In South Africa the education and housing functions are performed by the provincial governments on an agency basis for the national government. Remote area or rural development is undertaken by the district councils in South Africa.

Reilly & Tordoff (1993 : 150) and Sharma (1999 : 79) are of the opinion that, despite Botswana's reasonable record compared with other African states, the situation of local government is far from good. The local institutions are inefficient, poorly staffed, under-financed, badly managed, and barely carry out their statutory functions without considerable assistance from central government agencies (Chapter 3 : subsections 3.4.1.4, 3.4.2.3, 3.4.3.2, 3.4.4.2 and 3.4.5).

Thus, it can be stated that the statutory functions delegated to councils in Botswana are limited in terms of skill requirements, yet they still receive support from the central government and its agencies for the execution thereof. The situation in South Africa is different in that the local authorities in urban areas are able to execute a wide range of functions due to the fact that they are not poorly staffed, under-financed and badly managed. However, the situation in the rural areas (districts) varies from province to province and in some districts is rather desperate, particularly in terms of financial resources.



Turning to Nigeria, the document titled "Guidelines for Local Government Reform" which was adopted in 1976 by the Nigerian government *inter alia* comprised two lists of functions. The first consisted of functions that were to be devolved to local authorities, namely, markets and motor parks, sanitary inspection, refuse and night soil disposal, control of vermin, slaughterhouses, public conveniences, burial grounds, registration of births, deaths and marriages, parks, gardens and public open spaces, licensing, control of animals, naming of roads and collection of property and other taxes. The second list consisted of functions that could be handled jointly by local and state governments or by the former as they acquired the capacity to discharge them, for example, health centres, abattoirs, libraries, roads and streets, housing programmes and town and country planning (Gboyega, 1993 : 243-244). In South Africa the registration of births, deaths and marriages is performed through decentralised offices of the national government (Chapter 2 : subsections 2.6.1 and 2.6.2).

In terms of legal and constitutional provisions, local government is extraordinarily well placed to perform a major role in local development, both economic and social. However, the shortage of professional staff and the calibre of councillors prevented the devolution of most concurrent functions. In some of the states in Nigeria even functions on the exclusive list, such as markets, motor parks, and property rating have not been devolved to local government (Smith, 1981 : 326).

Smith (1981 : 326) continues that state governments have regarded the local authorities as their agents. They have not felt constrained by the various formal allocations of powers between states and localities which exist in edicts, policy statements and the Constitution of 1979. Hardly any function is seen as the sole preserve of local government. Osaghae (1989 : 350) states that functions such as veterinary, agriculture, management of hospitals, water supply and primary and post-primary education were taken over by the states in Nigeria on the grounds that local governments lacked financial and executive capacity, were poorly managed and ineffective (Chapter 4 : subsections 4.4.2.3.2, 4.4.4.2 and 4.5.3).

In South Africa the agricultural and veterinary functions are provided by or through decentralised offices of the national government, whilst hospitals are



managed by the provincial government on an agency basis for the national government.

Therefore, it can be stated that compared to local government in Botswana, the range of functions devolved to local government in Nigeria is broader, but the skill requirements to execute these functions are similar, that is, limited skills. Further, the local governments suffer from similar maladies, the result of which is that they receive considerable assistance from the higher sphere/s of government in the execution of their statutory functions. The unstable political conditions further aggravate the position of local authorities in Nigeria.

In terms of the **Constitution Act**, 1996 the powers and functions of municipalities in South Africa are also split into two functional areas, namely, of concurrent national and provincial legislative competence and of exclusive provincial legislative competence. Some of the functions listed under the former category are air pollution, building regulations, electricity and gas reticulation, fire fighting, local tourism, municipal airports, planning, health services, transport, public works, stormwater, trading regulations and water and sanitation. The functions listed under areas of exclusive provincial legislative competence are beaches, billboards, cemeteries, cleansing, burial and care of animals, licensing of dogs and sale of foodstuffs, local amenities and sports facilities, market, abattoirs, parks and recreation, roads, noise pollution, refuse removal, street trading, street lighting, and traffic (Chapter 2 : subsections 2.6.1 and 2.6.2).

Flowing from the foregoing, the functions required to be performed by the local authorities in the three countries can be grouped into a number of broad categories. Furthermore, it is noted that local authorities in either Botswana or Nigeria are responsible for primary education, housing and the registration of births, deaths and marriages, which is not the case in South Africa.

In addition, it can be stated that, with the above exceptions, the statutory functions which local authorities in South Africa are required to perform are broader and more complex than those performed by local authorities in Botswana and Nigeria, which can be attributed to the fact that, with the



exception of a number of district councils, local government in South Africa does not suffer from the lack of financial and skilled human resources to the extent as the two selected developing countries. Thus, local government in South Africa in relation to the selected developing countries is relatively stronger.

It can further be stated that the functions of concurrent national and provincial legislative competence in South Africa are by and large functions which have been delegated to local authorities, that is, they are executed on an agency basis for the higher spheres of government, and those of provincial legislative competence are functions which have been devolved or are the domain of local government and, as such, are managed entirely at the discretion of local authorities.

Due to the fact that the manner in which functions are to be executed is prescribed in legislation and various policy documents, it can be stated that the local authorities in South Africa are, and act as agents for the central and provincial governments in respect of various functions, for example, health, housing and library services, which functions should be devolved to the local sphere of government with the necessary funding as they ideally should be performed and managed as close as possible to the local populace.

In this regard Craythorne (1990 : 494) adds that there has been a tendency on the part of the South African government to delegate functions to local government and to instruct that those functions be implemented, examples of which are civil defence, health, housing, slums clearance, training and regional services councils levies (Chapter 2 : subsection 2.2.3).

The trend towards the centralisation of power characterised the re-organisation of local government in South Africa, although the then Government claimed that devolution of power is to accompany the restructuring. Under the then Regional Services Council system, which has been taken over by the metropolitan and district councils, most of the important district and city-wide functions were removed from direct electoral control and were placed under an administrative body which comprised representatives from the elected authorities, and a government appointed chairperson (Watson, 1988 : 174). The situation has generally remained the



same since the 1994 elections and it, therefore, can be stated that the centralisation of authority and power is a characteristic of government in South Africa (Chapter 2 : subsection 2.4.3).

Cloete (1997 : 107) states that, taking cognisance of the functions of local government in terms of the **Constitution Act**, 1996 efficient organisation will be required to keep abreast of all aspects of the numerous services to be rendered. As the standard of living and level of development of the various population groups rise, they will expect the quality of municipal services to improve. This requires new insights and understanding from councillors and, at the same time, higher standards are expected from officials. It also requires local authorities to appoint larger numbers of recognised professional personnel and technicians.

The foregoing statement can be verified by the developmental role that local government has to perform in terms of the **Constitution Act**, 1996.

Privatisation has attracted much attention in South Africa and may result in private enterprises taking over some of the functions of local authorities. Because essential goods and services are at stake, measures will have to be implemented to prevent breakdowns of services and standards will also have to be devised before privatisation of services rendered by local authorities can take place (Cloete, 1997 : 107). Further, local authorities in South Africa are increasingly turning to the private sector by way of establishing partnerships for the provision of facilities and the rendering of services (Chapter 2 : subsection 2.2.3.4 and Chapter 7 : subsections 7.3.3, 7.4.3 and 7.5.3).

It can be concluded that functions which local authorities cannot adequately perform in Botswana and Nigeria, are either taken over by, or they receive assistance from the higher levels of government, which can be construed that privatisation and/or the establishment of private-public partnerships has not taken off in these countries. On the other hand, local authorities in South Africa receive minimal assistance from the higher levels of government in the execution of their statutory functions. In fact, the central and provincial governments have delegated functions to the local level on occasion without providing the commensurate funding. Furthermore, local authorities have



privatised a number of services, such as, refuse collection and disposal, maintenance of buildings and security services and are entering into partnerships with the private sector for the provision of facilities and services to alleviate their financial burdens, examples of which are the management of amenities, resorts and sports complexes, water, sanitation and solid waste construction complexes.

## 8.5 LOCAL FINANCE

Section 41 of the **Local Government (District Councils) Law**, 1965 stipulates that councils in rural areas in Botswana derive their revenues from local government tax; rates which the council is authorised by law to impose; rents from properties owned; licences or permits issued; interest on investments; royalties; donations and government grants.

The councils in urban areas have the same sources of revenue as those in rural areas with local government tax, that is, prior to it being abolished in 1987, school fees and beer levies being the largest sources of income. Additional sources of revenue which are not available to the councils in rural areas are the rates on property, abattoir fees, the profit on African beer sales and self-help housing service levies (Jeppe, 1974 : 154 and Somolekae, 1998 : 66). In South Africa education is not a local government function and the levies in respect of the sale of African beer and alcohol in general accrue to the central government.

According to Reilly & Tordoff (1993 : 159) the rural and urban councils in Botswana are financially under-resourced, though some councils are much better off than others, the consequence of a haphazard system of resource allocation.

The foregoing is common to local government in developing countries where local authorities are not financially viable due to *inter alia* the cultural, demographic, geographic and socio-economic conditions.

The expenditure for urban councils in Botswana has been consistently higher than both actual and forecast revenues and, despite the fact that properties have increased in quantity and value in urban areas, default rates



in the payments of property taxes and service levies have been high, thereby making it even more difficult for these councils to increase their revenue base (Somolekae, 1998, 63). It can be stated that local authorities in both urban and rural areas in South Africa also suffer financially due to the non-payment for municipal services.

Local government tax was the main source of revenue for both rural and urban councils, representing approximately two-thirds of the revenue until it was abolished in 1987. The abolition of the local government tax has been attributed to the fact that it was expensive to collect and was not equitable. As a result, the central government has had to sharply increase the size of the annual deficit grant which it makes available to councils. The grant topped eighty percent of the total recurrent expenditure in 1986/87 and rose to over ninety percent following the abolition of the local government tax (Reilly & Tordoff, 1993 : 162 and Sharma, 1999 : 76).

In an attempt to widen the revenue base of councils, the Government of Botswana is investigating the introduction of a number of types of taxes at local level, namely, fuel tax, utilities tax, sales tax, the re-introduction of the local government or income tax, property tax in rural areas and a head tax on cattle (Somolekae, 1998 : 66) (Chapter 2 : subsection 2.7.1 and Chapter 3 : subsections 3.4.2.4, 3.4.3.3 and 3.6.4).

Thus, it can be stated that local government in developing countries, in general, has inadequate sources of revenue to survive without substantial financial assistance from the higher sphere/s of government, and in Botswana, it is by way of general grants. The severe dependence of local authorities in Botswana on grants from the central government in turn restricts the degree of decentralisation of power which can be effected.

Turning to Nigeria, Ola (1984 : 91) writes that local governments continue to find revenue from sources other than grants from the federal and state governments. Community tax, which is a flat rate and cattle tax imposed in the Northern states, and property tax, which is predominantly imposed in urban areas, continue to be regular sources of revenue. The other sources of revenue for local governments are as follows:



- Rates
  - education
  - street lighting
  - property
- Taxes
  - pay as you earn
  - poll tax
- Fees and fines
  - court fees and fines
  - market fees
  - motor park fees
  - forest fees
  - public advertisement fees
  - regulated premises fees
  - registration of birth and death fees
  - palm wine dealer licence fees
- Government special grants
  - medical and health
  - education
  - community development and social welfare
- Loans
- Miscellaneous
  - rents on real estate
  - royalties
  - rents on council land
  - interest on investments

Thus, it can be stated that the sources of revenue available to local government in Nigeria differs from those in South Africa in that a number of them are collected by or are the domain of central government, for example, education, personal tax as well as various of the fees and fines, such as, court fines, birth and death fees and bottle store licence fees. In Nigeria, local authorities receive both general and specific grants, which is not the case in Botswana where they receive general grants to make good their deficits.

Smith (1982 : 4) adds that the 1976 local government reforms in Nigeria included the provision for both general and specific grants to enable local authorities to take care of essential services and provide a surplus for the execution of development projects. The Federal Government also played a



role in the financing of local government following the constituent assembly's decision that local government should receive grants from both federal and state levels of government (Chapter 2 : subsection 2.7.1 and Chapter 4 : subsections 4.4.2.1.3 and 4.4.2.3.3).

In South Africa where there are also three spheres of government, local authorities likewise receive grants or subsidies from both the central and provincial governments. However, these grants are received primarily for the functions which they carry out on their behalf, for example, health, housing, fire and libraries.

In addition to statutory grants from the federal and state governments, local authorities in Nigeria are also allowed their traditional sources of revenue, such as community tax, licensing fees, permits, property rating, rents from municipal buildings and interest on investments (Gboyega, 1993 : 247).

According to Smith (1982 : 13) the overwhelming dependency of local authorities in Nigeria on funds from a higher level of government is in part due to the fact that throughout its history local government has been organised by central authorities which, despite the rhetoric of democratic decentralisation, have been more concerned to strengthen control than local autonomy. O'Donovan (1992 : 359) adds that local authorities must *inter alia* derive twenty percent of their revenue from the federal and ten percent from the state governments.

In Nigeria, sources of locally generated revenue are extremely meagre, and local authorities are almost entirely dependent on their allocation from the federal government, which in effect means from their share of petroleum revenues (Aborisade & Mundt, 1995 : 206). As in the case of Botswana, this state of affairs severely limits the degree of decentralisation (Chapter 2 : subsection 2.2.3 and Chapter 4 : subsections 4.4.4.3 and 4.5.4).

Turning to South Africa, Acts of Parliament and provincial legislation prescribe the sources of revenue. In this regard Subsection 214(1) of the **Constitution Act**, 1996 stipulates that there must be equitable division of revenue raised nationally among the central, provincial and local spheres of



government, in the determination of which the following must be taken into account:

- national interest, debt and other obligations;
- ability of the provinces and local governments to provide basic services and perform their statutory functions;
- fiscal capacity and efficiency of the provinces and local governments;
- developmental and other needs of the provinces and local governments;
- economic disparities among the provinces; and
- obligations of the provinces and local governments in terms of national legislation.

The central government decided to embark on this course due to the fact that the system of operating grants to local authorities was unequal and unpredictable and contributed to an undesirable situation in which more and more local authorities got themselves into financial difficulties (Department of Finance, 1998 : 1).

The principal sources of revenue of local authorities in South Africa are as follows:

- assessment rates on fixed property, that is, land and the improvements thereon;
- service charges in respect of various services rendered, for example, sewer fees, entrance fees, rent for municipal halls and other buildings, fees for the removal of refuse and night soil and pound and ambulance fees;
- revenue from trading enterprises, that is, the activities involved in the provision of gas, water, electricity, passenger transport, abattoirs and fresh produce markets;
- subsidies; and
- Regional Services Council levies (Cloete, 1997 : 120-127).

Cloete (1997 : 126) continues that South African local authorities were usually expected to generate sufficient income to carry out their functions. They received little assistance from the provincial and central authorities. In



agreeing, Solomon (1988 : 88) writes that subsidies from central or provincial government have always formed an insignificant part of local government funding in South Africa, and were confined to ambulance, health, libraries and housing. Cloete (1997 : 126) adds that local authorities are paid subsidies by the central and provincial authorities for:

- the construction and maintenance of provincial roads in municipal areas;
- the provision of public library facilities;
- specific purposes such as the construction and maintenance of museums, nature reserves and botanical gardens;
- civil protection and fire brigade services, and
- planning and construction of level crossing elimination.

It can be stated that the local authorities in Botswana and Nigeria are seen mainly as agencies for carrying out the policies of central government in that, *inter alia*, grants make up the bulk of their revenue. Conversely, at this stage, local authorities in South Africa enjoy relative autonomy in terms of the powers to raise their own revenue through taxation (Chapter 2 : subsections 2.7.1 and 2.7.2 and Chapter 7 : subsections 7.3.4, 7.4.4 and 7.5.4).

Thus, unlike the situation in Botswana and Nigeria, local authorities in South Africa receive minimal financial support from the central and provincial governments due *inter alia* to the fact that, with the exception of a number of district councils, they generally can raise sufficient revenue to execute their functions. However, the healthy financial position of most local authorities has deteriorated since the municipal elections in 1995/96 which can primarily be attributed to the transformation of local government and the persistent culture of non-payment for municipal services.

## 8.6 CONCLUSION

Flowing from the comparative evaluation of the decentralised reforms in the developing countries selected for this dissertation, a number of differences and similarities in respect of the political systems, local political structures, functions and finances can be highlighted, which are depicted in Table 8.1.



**Table 8.1: Comparison of Botswana, Nigeria and South Africa**

D E C E N T R A L I S A T I O N		POLITICAL SYSTEM	LOCAL POLITICAL STRUCTURE	LOCAL FUNCTIONS	LOCAL FINANCES
	Botswana	Former British colony. Took over unitary system of government. Developing country. Competitive oligarchy. No provision in constitution. Central and local levels. Central dominated relations.	One weak tier. Representative general- and non-representative single-purpose authorities. Centralised model. Minimal reforms.	Central government agencies assist with execution of statutory functions. Agency of central government. Specification detailed in legislation. Close control by central field staff. Deconcentration and attempts at delegation.	Under resourced. Extremely dependent on grants from central government. Close control by central government. Specification detailed in legislation.
	Nigeria	Former British colony. Implemented federal system of government. Developing country. Military regime (primarily). Provision in constitution. Federal, state and local levels. Federal and state dominated relations.	One weak tier. Non-representative general-purpose authorities. Centralised model. Drastic reforms.	Central ministries provide many local services directly and closely supervise others. Agency of federal and state governments. Specification detailed in legislation. All pervasive federal and state control. Deconcentration and attempts at delegation and devolution.	Under resourced. Extremely dependent on grants from federal and state governments. All pervasive control by the state governments. Specification detailed in legislation.
	South Africa	Former British colony. Took over unitary system of government with federal elements. Advanced developing country. Democracy. Provision in constitution. Central, provincial and local levels. Central and provincial dominated relations.	One and "two tiers" - relatively strong upper tiers. Representative general-purpose authorities. Hybrid centralised and federal model. Significant reforms.	Minimal assistance from central and/or provincial governments. Agency of central and provincial governments. Specification detailed in legislation. Close control by central and/or provincial governments. Delegation, privatisation by way of contracting out and private-public partnerships and attempts at devolution.	Minimal dependence on grants from provincial or central governments. Close control by central government. Specification detailed in legislation.

Botswana is a unitary state which comprises two levels of government, namely, central and local. At the local level, which is not enshrined in the Constitution and comprises a single tier, there are four forms of institutions, namely, tribal administration, urban and rural district councils and district administrations. The changes which have been brought about to the structures of the local institutions in Botswana since independence have been minimal, which can be attributed to the stability prevailing in the country. The limited changes which have been introduced primarily effected the functions and powers of the tribal and district administrations.

Nigeria, on the other hand, is a federation comprising three levels of government, namely, federal, state and local. Prior to the decentralised



reforms of 1976, the local level in each region had its own multiple-tier structure consisting primarily of two to three subordinate tiers known as county or divisional councils, district councils and local or village councils. Unlike Botswana the political instability in Nigeria since independence has had a major impact on *inter alia* the structure of local government, for example, the sweeping reforms of 1976 brought about the establishment of a single tier of general-purpose local authorities throughout the country. The number of local governments were regularly being increased or decreased during the various periods of civilian and military government, despite the fact that the local level of government has been enshrined in the Constitution of 1979.

South Africa is a unitary state with federal features and comprises three spheres of government, namely, central, provincial and local. Since gaining independence in 1961, the structure and system of local government remained unchanged, and comprised single-tier general-purpose local authorities. The decentralised reforms during the 1980's introduced Black local authorities and Regional Services Councils to the local sphere of government on the same tier as the existing local authorities. The Constitutions of 1961 and 1983 did not guarantee the rights and status of local authorities.

However, since the first democratic local elections in 1995, and in some provinces 1996, transitional local structures have been established which substantially decreased the number of local authorities, but increased the size of councils in the various urban and rural areas. This transitional phase brought about a "two-tier" structure of local government in the various metropolitan areas in South Africa comprising so-called transitional metropolitan councils and transitional metropolitan substructures. At present the transitional metropolitan councils are fulfilling the role and function of the previous Regional Services Councils. In the non-metropolitan areas district councils were established comprising "two tiers", namely, the district and municipalities for rural and urban areas. The district councils took over the



powers and functions of the previous decentralised units of the Regional Services Councils.

The current legislation, that is, the **Local Government: Municipal Structures Act**, 1998 stipulates that in metropolitan areas a single tier political structure must be established and in non-metropolitan areas a “two-tier” structure comprising districts and existing viable municipalities. These structures are to be implemented after the municipal elections which are scheduled towards the end of 2000.

The sweeping reforms to the local government structures implemented in Nigeria and South Africa in 1976 and 1995/96 respectively had a negative impact on the financial, functional and human capabilities and resources, which in turn affected the efficiency and service delivery of these newly created structures.

The main statutory functions of the urban and rural councils in Botswana are the provision of primary education, health, non-gazetted roads, water and community development. However, these councils are barely able to carry out their statutory functions without considerable assistance from central government agencies. Furthermore, the central government of Botswana has over the years taken away functions such as the control of permanent staff, primary school teachers, trade licensing and wildlife from the councils. The reasons given for this state of affairs is that these councils are inefficient, poorly staffed, under-financed and badly managed. Therefore, the allocation or decentralisation of functions to local authorities who do not have the resources to carry them out serves no useful purpose.

In view of the foregoing it can be stated that the local institutions in Botswana are agencies of central government, namely, the Ministry of Local Government, Land and Housing, and that, as such, the functions are deconcentrated, which is a typical scenario of most developing countries with unitary systems of government, that is, previous colonies.



The decentralised reform measures adopted by the military regime in Nigeria in 1976 devolved a comprehensive list of functions to local authorities. However, numerous functions appearing on the "exclusive list", that is, functions exclusive to local authorities, have not been devolved, for example, markets, motor parks and property rating. The reasons given are that the local authorities are under-financed, lack professional staff, poor calibre of councillors and excessive fragmentation of local units, that is, similar to Botswana.

As in the case of Botswana, numerous local functions were taken over by the state governments or by special purpose agencies appointed by state governments, for example, veterinary, agriculture, management of hospitals, water supply, post-primary education, town and country planning, fire protection and housing. Functions such as customary and area courts, police and prisons were taken over by the federal government.

It can, therefore, be stated that the local authorities in Nigeria are mere agents of the federal and state governments and that centralisation appears to be rife, despite attempts to delegate and devolve powers and functions. This can be attributed to the cultural, ethnic, religious, economic and political problems which lead to the instability in the country, as well as the incapability of the local authorities to execute their statutory functions.

Local authorities in South Africa are obliged to perform most functions within the limits prescribed by Acts of Parliament and provincial legislation, that is, specification detailed in legislation. In the past the White local authorities performed a comprehensive list of functions without receiving any assistance from either the provincial or central governments, the exceptions *inter alia* being libraries, civil protection and fire brigade, construction and maintenance of provincial roads and low cost housing. White local authorities, however, assisted the Black local authorities with the provision of various services, in return for which they received subsidies from central government.



The previous central government did delegate certain powers and functions to local authorities, for example, in terms of the **Land Use Planning Ordinance**, 1985 (No. 15 of 1985) and the **National Building Regulations and Building Standards Act**, 1977 (Act 103 of 1977). The main thrusts behind the then Government with the establishment of Regional Services Councils was to broaden democracy and to devolve powers and functions to the local level of government, which, however, failed to materialise.

The **Constitution Act**, 1996 allocates a comprehensive list of functions to local government. However, it remains to be seen whether the new local authority structures in South Africa will be able to perform these functions without financial assistance from the higher spheres of government, or additional sources of revenue, particularly in the light of the culture of non-payment for municipal services by the previously disadvantaged population groups. In order to alleviate this problem local authorities have privatised certain services and/or entered into public-private partnerships for the provision of facilities and services.

It can be concluded that unlike the local authorities in Botswana and Nigeria which are heavily dependent on grants from the higher levels of government for their survival, local authorities in South Africa have been able to raise sufficient sources of revenue locally to function effectively and to deliver the required services.

In the next chapter a comparative evaluation will be made of the decentralised reforms in respect of the political systems, local political structures, functions and finance between South Africa and the selected developed countries.



## **CHAPTER 9**

### **COMPARATIVE EVALUATION OF DEVELOPED COUNTRIES**

#### **9.1 INTRODUCTION**

In this chapter a comparative evaluation will be made of the decentralised reforms with regard to the criteria identified for this study between South Africa and the two selected developed countries, namely, Britain and the United States of America, for the purpose of establishing the reasons for the failures and successes of local government in these countries which conditions should consequently either be avoided or implemented in the context of South Africa.

The objective of the comparative evaluation is furthermore to gain a perspective of the differences, similarities, trends and factors which have had an influence on local government in these two developed countries, some of which decentralised reforms can be of relevance in formulating an effective system of local government for South Africa.

In the following sections of this chapter the criteria identified, namely, political systems, local political structures, functions and finance will be compared and evaluated, after which a conclusion will be drawn from the experiences or lessons.

#### **9.2 POLITICAL SYSTEMS**

Countries of the developed world are basically capitalist in orientation and are a product of an early transition to societies based on market relations. The creation of a liberal political order against feudal privilege and absolute monarchy was a key in the establishment of a market society, to be followed by later democratisation, for example, Britain (Hague & Harrop, 1987 : 48).

According to Hague & Harrop (1987 : 51) Britain was the homeland of majoritarian democracy. Between 1945 and 1974, the system worked in Britain because it was a relatively homogeneous society divided mainly by class. At



élite level, majoritarian democracy was marked by adversarial politics, at mass level by muted social divisions. Opposition supporters were prepared to allow the other party to govern following a fair electoral contest.

Finer (1972 : 62) adds that liberal democracy is an English export which form of government some nations have maintained for well over a century, for example, the United States of America. This form of government is fragile in that very few countries have maintained it for a long period of time. Many of the countries who have maintained the form of government were largely or wholly populated from Britain, for instance, the North American liberal democracies, Australia and New Zealand.

The concept of liberal democracy qualifies the pure democratic idea of government by the people. In a liberal democracy majority rule is balanced by constraints upon the exercise of power, for example, checks and balances. In a majoritarian democracy a single political party forms the government and wields extensive executive powers until the electorate delivers its verdict at the next election.

Since 1974 majoritarian democracy in Britain lost some effectiveness and legitimacy. The class cleavage, which underpinned the two party system, has declined; new divisions, especially those of nationalism, have emerged; the two major parties, that is, conservative and labour, have been challenged by new parties; and the hold onto power of the two major parties has come to depend on the arbitrary operation of the electoral system (Hague & Harrop, 1987 : 51) (Chapter 2 : subsection 2.3.1 and Chapter 5 : section 5.3).

Jones (1991 : 167) writes that, as Britain does not have a written constitution, local government has no guaranteed constitutional status. Under the prevailing doctrine of Parliamentary Sovereignty statute is supreme, Acts of Parliament create and can abolish local government, they grant it power, amend them and take them away, determine its structure and boundaries, and its role in society. This authority of Parliament gives great power to central government, since normally it is in control of Parliament because of its party majority in the House of Commons, that is, majoritarian democracy.



According to Norton (1994 : 356) the cumulative effect of the former Conservative Government's values has been significantly to devalue the importance of the constitutional position of local government in Britain. The government has seen local authorities as its agencies, thus, there is no assumption that local authorities have a right to act in the interests of their inhabitants unless they can quote legal justification or limit their expenditure to a low statutory level (Chapter 5 : subsections 5.3.1 and 5.7.1).

Governments with a unitary system have proven to be less effective for large nations than for small nations, and they do not allow for ethnic and regional groups to exercise some degree of autonomy for themselves. Britain's unitary government has been the subject of tension because some citizens in Wales, Scotland and Northern Ireland have argued that it does not give regional and ethnic groups as much power as they like (Mahler, 1995 : 30) (Chapter 2 : subsections 2.4.1 and 2.4.2.1 and Chapter 5 : subsection 5.3.1).

The system of local institutions in the then colonies of the United States of America strikingly resembled the pattern of local government which existed in England. This was not unexpected since most of the early settlers came from England and brought their homeland's ideas, concepts and institutions to the New World (Blair, 1964 : 18).

Blair (1964 : 21-32) continues that geographical, economic, social, religious and political factors were also important influences pertaining to the basic patterns of local government which were introduced in the then colonies of the New World during the sixteenth and seventeenth centuries (Chapter 6 : section 6.2).

According to Hague & Harrop (1987 : 171) federalism rarely emerges from a voluntary compact between previously autonomous states. This was indeed the procedure in the United States of America when the representatives of thirteen states met in Philadelphia in 1787 to formulate the Constitution. Similar conventions took place in Canada in 1867 and Australia in 1901. Elsewhere in Latin America and some of the former British colonies, such as Nigeria, federalism was more imposed from outside rather than created within the countries.



Local government is not enshrined in the Federal Constitution of the United States of America. The omission is explained by the expectation that their establishment and control was a state responsibility. Legally, local governments are viewed as agencies of the states and, therefore, are subject to the same constitutional prerogatives and prohibitions (Ferguson & McHenry, 1971 : 740 and Chandler, 1993 : 40). The relationships between the state and local governments are defined by the constitution and laws of the state in which the local authority is situated. The Federal Constitution is silent on issues of local government (Rassel, 1995 : 135).

However, in nearly all of the states in the United States of America, local governments can achieve a significant degree of control over their own affairs through a "home rule" provision in the state constitutions. Home rule provisions give local governments autonomy from the state legislature by allowing them to exercise independent power over their own affairs without the need for state enabling legislation (Keller & Weinstein, 1991 : 62). Home rule charters provide local communities the opportunity to draft their own charters within state guidelines and recognises the right of municipalities to exercise broad discretionary authority (Gunlicks, 1991 : 82) (Chapter 6 : subsection 6.4.1).

Ranney (1992 : 566) and Gunlicks (1991 : 77) state that the provisions of the written Constitution of the United States of America and their associated customs and usages add up to a constitutional system that has three distinctive features, namely, federalism, judicial review and separation of powers, that is, the constitutional division of government power among separate legislative, executive and judicial branches (Chapter 2 : subsection 2.4.2.2 and Chapter 6 : subsections 6.3.1 and 6.7.1).

Local government in South Africa has brought forth a rich variety of forms and traditions, taken and adapted from the two countries of origin, namely, the Netherlands and Britain, particularly England. The systems inherited reflect the results of evolution of those countries. However, South Africa is a mixture between a developed and developing country and the culture and traditions of the people who were in the country when the first settlers from Europe landed has, and will continue to affect the growth and development of local government in South Africa (Craythorne, 1990 : 1).



In agreeing, it can be stated that after gaining independence from Britain, the inherited Westminster parliamentary system of government was in place for over twenty years in South Africa, which was subsequently changed in terms of the Constitutions of 1983, 1993 and 1996 to a presidential type system of unitary government. The English system of local government has also been in place for a considerable period, although it can be stated that reformers have been looking at countries other than Britain with the view to the implementation of a model or system of local government in the final phase of the transformation process that will accommodate and promote the central government's policies and programmes (Chapter 7 : subsection 7.3.1).

In terms of Section 1 of the **Constitution Act**, 1996 South Africa is one sovereign, democratic nation founded on the principles of human dignity, non-racialism and non-sexism, supremacy of the Constitution and the rule of law, and universal adult suffrage. The Constitution of 1996 provides for a unitary system of government in South Africa. However, it comprises a number of characteristics or features common to federal constitutions, namely, the Constitution is written, there is a Bill of Rights, it provides for relatively autonomous provincial governments, the Constitution is supreme and the judiciary resolves disputes between the organs of the state.

Section 151 of the **Constitution Act**, 1996 provides that the local sphere of government in South Africa consists of municipalities which must be established throughout the country and national and provincial governments may not compromise or impede a municipality's ability or right to exercise its powers or functions.

However, the national government, subject to its constitutional legislative authority, and provincial governments have the legislative and executive authority to ensure that municipalities perform their functions in respect of the matters mentioned in Schedules four and five of the **Constitution Act**, 1996 effectively and efficiently, by regulating the executive authority of a municipality (Chapter 7 : subsections 7.4.1 and 7.5.1).

In concurring with Craythorne (1990 : 1) that South Africa is a mixture between a developed and a developing country, Hilliard (1993 : 12) adds that South Africa, although an advanced developing country, suffers from the maladies of



most developing countries, such as illiteracy, inadequate training and a lack of skills. Developing countries have extensive centralisation because of the tendency of the leaders to build empires for themselves and their desire to centralise all authority in themselves (Chapter 2 : section 2.3, subsections 2.4.2.1 and 2.4.2.2).

Turning to intergovernmental relations, local authorities in Britain have no constitutional rights and status and, as such, are established by the higher level of government, namely, the central government. As creations of legislation, local authorities are seen to be, and can be construed as agencies of the Government of the day. The intergovernmental relations are, therefore, dominated by the central government (Chapter 2 : subsections 2.4.3.1 and 2.4.3.2 and Chapter 5 : subsection 5.3.1).

In the United States of America, the Federal Constitution does not enshrine local government as a level of government. Local authorities are established in terms of the constitution of the state in which they are situated and are subject to the laws of the state. The rights and status of local authorities are, however, protected through the various kinds of state charters which can be applied in terms of the constitutions of the states (Chapter 6 : subsections 6.3.1 and 6.4.1).

On the other hand, local government in South Africa is enshrined in the Constitution of 1996 as a sphere of government. The principles of co-operative government and intergovernmental relations are underpinned in the said Constitution and are primarily based on mutual respect, trust and good faith. However, local authorities are still seen as vehicles to carry out Government policies and programmes at grassroots level (Chapter 7 : subsections 7.4.1.2 and 7.4.1.3).

Hence, in South Africa, municipalities are created in terms of the provisions of the Constitution or central government through which legislation the provincial governments are empowered to establish municipalities, that is, not through legislation by the second sphere of government as in the case of the United States of America.



The provision of so-called home rule charters in either the **Constitution Act**, 1996 or in the constitutions of the nine provinces in South Africa will, however, enhance the autonomy of local authorities as well as the degree of decentralisation of authority and power.

Thus, it can be stated that South Africa and the United States of America have been strongly influenced by the British democratic political order and system of local government.

Britain, however, being a relatively homogeneous society could adopt a unitary system of government, whilst it can be argued that the United States of America adopted a federal system of government due to its relative diversities, namely, demographic, geographic, economic, social, religious and political differences, as well as the American society's value attached to decentralisation and true democracy, the vastness of the country and, at the time, its potential wealth.

South Africa, on the other hand, being a mixture of a developed and developing country as well as a combination of the aforesaid factors, adopted a democratic unitary system of government whose Constitution contains several characteristics or features common to a federation.

### 9.3 LOCAL POLITICAL STRUCTURES

Britain has two historically distinct levels of government and administration, namely, central and local, both originating in appointments and grants of liberties by the Crown. However, local authorities have no independent rights, and since 1974 in England and Wales, and 1975 in Scotland are creations of statutes or, in terms of real power in the 1980's and early 1990's, of a government with majority support in the House of Commons. (Norton, 1994 : 355-356).

Norton (1994 : 353) continues that the recognition of local government as a general-purpose provider of services began to fade from the 1930's with the loss of various functions. The root causes for the loss of functions were local government's political weakness, the low weight given to local autonomy and control, and the belief that most of the local authorities did not provide an



efficient means of implementing reform programmes (Chapter 5 : subsection 5.3.3).

The reasons given by the Redcliffe-Maud (England and Wales) and the Wheatley (Scotland) Commissions for the initial decentralised structural reforms to local government were:

- that the public found the local structures confusing and over complicated, that is, too fragmented;
- that many of the local authorities were too small in size, measured in terms of population, area or financial resources to be efficient and effective, in other words, not viable; and
- that the weaknesses of the local structures led to unnecessary control and interference by the central government.

Flowing from the foregoing, Owojaije & Smith (1983 : 403) write that the central government recognised the validity of the arguments for large local authorities for the effective and efficient operation of some services and for smaller local authorities for grassroots democracy. The Government was not in favour of the proposal to establish provincial or regional authorities as the areas would be too large for the smooth operation of local government services.

Legislation was accordingly introduced which implemented a three-tier local structure in non-metropolitan areas and a two-tier local structure in metropolitan areas in England and Wales as well as a two-tier local structure in Scotland.

The local level of government in England was subsequently restructured again and presently (1999) comprises three tiers in most non-metropolitan areas, namely, counties, districts and parishes, and in metropolitan areas of a single or unitary tier of district councils. Similarly, in mainland Scotland the two-tier structure comprising regional and district councils was replaced in 1996 by a system of single or unitary tier authorities. Local authorities in Britain are predominantly representative general-purpose institutions.

Reverting back to the mid-1980's and the decision by the Thatcher Government to abolish the two-tier structure in metropolitan areas, Chandler (1991 : 27) writes that the legislation to abolish the Greater London Council and the six



metropolitan county councils, that is, the top tier local authorities, proved to be the most troublesome issue of the 1983 to 1987 term of the Conservative Government. Official criticisms rested largely on the cost of their administration and the belief that their removal would save money. In reality their abolition was largely due to the fact that they were controlled by the opposition Labour Party who was highly critical of the Government's policies and programmes. Norris (1997 : 126) adds that their abolition has increased the amount of fragmentation in metropolitan areas with regard to the provision of services in that numerous *ad hoc* or special-purpose authorities were established to carry out their functions (Chapter 2 : subsection 2.5.1 and Chapter 5 : subsections 5.4.1.4, 5.4.2.4 and 5.5.1).

Therefore, it can be reiterated that the decision to abolish the two-tier local structure in metropolitan areas was taken purely for political reasons and not based on sound technical and scientific principles.

Turning to the abolition of the two-tier local structure in Scotland, McCrone *et al* (1993 : 10) write that by 1991, as the popularity of the Conservatives declined, the party controlled no regional councils and only three of the fifty three district councils. If the Conservative Party controlled a greater proportion of the regional and district councils, the outcry for change to the local government structure would probably not appear on the political agenda. The proposed reforms, therefore, have to be seen within the context of the politics of Scotland.

In concurring, Midwinter & McGarvey (1997 : 87) conclude that the re-organisation of local government in Scotland was defended by the argument that it would create a more local, more efficient and more accountable system. The vague commitment to decentralisation in itself undermines the rationale for unitary authorities based on boundaries which reflect community identity. Some local authorities have simply based their decentralisation scheme along the former district council boundaries (Chapter 5 : subsection 5.6.1).

Thus, it can be argued that, as in the case of England, the decision to abolish the two-tier local structure in Scotland was based on political reasons. The creation of a single-tier local structure is contrary to the objectives and values of decentralisation, particularly in the light of the drastic reduction of primary local



primary local authorities in Scotland from sixty five to thirty two, that is, taking government away from the people.

It is trusted that the South African government's decision to implement a single-tier local structure in the metropolitan areas is also not purely based on accommodating and promoting its political agenda and philosophy.

The structures of local government in the United States of America evolved over time as political reactions to their context. Structural and social reform, demographic shifts, and fiscal crises are examples of contextual changes which, in turn, caused significant transformations in local government (Keller & Perry, 1991 : 31) (Chapter 6 : section 6.2).

Local government in most states can be divided into cities, that is, municipal corporations, counties for rural areas, usually comprising towns and villages and special districts, that is, single or special purpose local units. Although each of these units may carry out functions in an area administered for other purposes by another type of local government organisation, local government in the United States of America does not comprise tiers in the style of Britain in that tiered structures are only to be found in certain states. Each local authority is independent, although all are subject to legislative state controls (Chandler, 1993 : 141). This can be attributed to the fact that the American populace places great emphasis on the objectives and values of decentralisation, that is, government must be close to the people so that each citizen may participate in the decision-making process regarding the choice of service and zoning of a neighbourhood (Chapter 6 : subsections 6.3.1 and 6.4.2.3).

With regard to the central or large cities in the United States of America, Keller & Perry (1991 : 39) write that they are a produce of two movements. On the one hand, the demands for improved and increased provision of infrastructure, facilities, services and utilities, and on the other hand the states assigned most of the costly new demands to the central city. The unlikely alliance packed the service agenda of central cities, increasing the municipal tax burden, while suburban and rural taxes remained relatively low. Accordingly, the city residents who were disproportionately affluent moved to the suburbs, that is, towns and townships, to escape taxes and paying for services they did not use



or prefer. This resulted in many central cities becoming increasingly unable to pay for constitutionally required services (Chapter 6 : subsection 6.4.2.2).

It can be stated that the foregoing scenario or trend has taken root in the metropolitan or larger cities in South Africa which process will be enhanced by the so-called mega- or uni-cities which are primarily being established for the equitable distribution of wealth.

The counties in the United States of America are established by the states throughout their territory in areas outside of the cities. The counties are usually units of local administration for rural areas (Chandler, 1993 : 141). A county usually comprises one or more towns or townships and several villages. In most counties, one town or city is designated as the county seat where the government offices are located and where the board or council meet (Glick, 1989 : 3).

The county system in the United States of America can, thus, be compared to the district council system in South Africa. However, the district councils comprise a "two-tier" local structure whereas the local institutions operating within a county are independent or totally divorced from the county government (Chapter 6 : subsection 6.4.2.1).

In the United States of America there are some thirty three thousand special districts which provide one or more services usually across the boundaries of the other forms of local institutions. Special districts can loosely be compared with the British health and water authorities and the various special-purpose authorities which have been established by the central government in South Africa, for example, irrigation and water boards. However, in Britain and South Africa there are relatively few such authorities in existence compared to the United States of America. The proliferation of special-purpose authorities leads to duplication and fragmentation of service delivery and confusion amongst the populace (Chapter 6 : subsections 6.3.3 and 6.4.2.4).

According to Keller & Perry (1991 : 47-48) consolidation usually occurs among the traditional units of local government, namely, counties, cities, villages, towns and townships, and does not include special districts and non-profit benefit corporations. In spite of severe problems facing the urban areas in the United



States of America, such as the increasing cost of local government, the uneven distribution of resources within metropolitan areas, and the effects of the paradox of poverty in the face of demands for expensive public programmes, most attempts at consolidation of local government units have failed.

The foregoing resistance to amalgamation or consolidation can again be attributed to the ideology and belief of the American populace that the closer a government is to the citizens, the better it will serve them and that local government must be autonomous, that is, the objectives and values of decentralization (Chapter 2 : subsection 2.2.4 and Chapter 6 : subsections 6.4.3 and 6.7.2).

Turning to South Africa, Vosloo (1974 : 26) states that the urban local authorities were by far the largest group and they were known by a variety of official designations in the various provinces. These local authorities were generally known as municipalities and were "creations" of the higher authorities and enjoyed no constitutionally entrenched charter or home rule rights. Municipalities are empowered to pass by-laws and to adopt resolutions on matters entrusted to them in terms of central government legislation and provincial ordinances. In concurring, Cameron (1995 : 398) adds that in South Africa local authorities were created by provincial authorities, which defined the scope of their local jurisdiction. Local authorities were single tier general-purpose institutions with both legislative and executive powers.

The situation in South Africa has changed with the advent of the Constitution of 1996. Municipalities are now created by the Constitution or central government through which legislation the provincial governments are empowered to establish municipalities.

Thus, in the United States of America local authorities are established by the states and in Britain and South Africa by the respective central governments.

In terms of the provisions of the **Constitution Act**, 1996 Parliament will be the dominant legislature in municipal affairs and will have to see to it that the provincial and municipal legislatures perform effectively. However, Section 151 of the **Constitution Act**, 1996 gives local authorities the right to govern on their



own and to protect the provincial and municipal institutions against unreasonable decisions of Parliament (Cloete, 1997 : 22).

In concluding, it can be stated that local government in Britain, that is, excluding Scotland, forms a relatively weak level of government in relation to the central government in that it has limited influence at the higher level of government and is constrained functionally and financially by way of various directives and legislation. Similarly, it can be stated that the municipalities in South Africa are, and will form a relatively weak level or sphere of government due to the unitary system of government and the restrictive enabling national legislation flowing from the Constitution of 1996.

However, it can be argued that the municipalities or cities in the United States of America form a strong level of government in view of the home rule charters which provide these institutions with considerable autonomy from the state legislature by allowing them to exercise authority and power over their own affairs, which powers vary according to the population or size of the local entity (Chapter 2 : subsection 2.5.2).

Finally, it can be stated that the model of local government in Britain can be classified as being centralised in that the rights and status of local authorities are not protected, whilst the United States of America has a federal model of local government in that the state and local governments form a strong level of government relative to the federal government. Local government in South Africa on the other hand is a hybrid between a centralised and a federal model (Chapter 2 : subsection 2.5.3).

## **9.4 LOCAL FUNCTIONS**

Local authorities in Britain were at one stage the direct providers of a growing number of services, including hospitals, public education, youth employment, low-income housing, relief for poor and town and country planning. However, from the 1930's local government as a general-purpose provider of services began to fade with the loss of functions such as hospitals, relief of the poor, electricity and gas supply, water supply, conservation and sewage disposal (Norton, 1994 : 352-353).



The reasons for the loss of functions were the political weakness of local level of government, the low priority given to local autonomy and the decentralisation of power, and the belief that most of the local authorities did not provide an efficient means of implementing the Government's policies and programmes, which scenario is typical of a pure unitary system of government (Chapter 5 : subsections 5.2.1 and 5.2.2).

Flowing from the foregoing, it can be stated that in South Africa local authorities provide such services as electricity and water supply, conservation and sewage disposal, which were taken away from local government in Britain, whilst hospitals, education and relief for the poor are the domain of the higher levels of government. In the United States of America these functions are performed by the various forms of local institutions or in collaboration with the federal or state governments (Chapter 6 : section 6.5 and Chapter 7 : subsection 7.3.3).

Following the decentralised local government structural reforms of 1972 in England and Wales, the metropolitan counties, that is, the upper tier, were allocated relatively few or minor functions and were solely responsible for strategic planning, highways, small holdings, passenger transport, traffic, fire, police and consumer protection, the latter four being the so-called protection services. The sole responsibilities of the metropolitan districts were local plans and control, local sewers, minor roads, environmental health, libraries, housing and the major education and personal social functions.

The non-metropolitan counties by contrast were given major services to administer, notably education and personal social services and also strategic planning, highways, small holdings, libraries, fire, police, traffic and consumer protection. The sole responsibilities of non-metropolitan districts were local sewers, local plans and control, minor roads and environmental health.

With a two-tier local structure it is imperative that there is a clear distinction between the functions to be carried out by the upper and the lower tiers or else it could lead to co-ordination and management problems. The concurrent functions in both metropolitan and non-metropolitan areas were land drainage, town development, parks, recreation, museums and arts. The district councils collected refuse which was disposed by the counties whilst the counties also had limited housing powers.



Turning to the decentralised structural reforms to local government in Scotland in 1973, Page (1980 : 278) writes that the functions were primarily allocated between the two-tiers on the basis of large and small area functions. The sole responsibility for strategic planning, education, social work, roads, water, police, fire, valuations and consumer protection was given to the regional councils, whilst the sole responsibilities of the district councils was housing, environmental health, local planning and control, libraries and refuse collection and disposal with the concurrent or shared functions or responsibilities being amenities and tourism and industrial development (Chapter 2 : subsection 2.6.1 and Chapter 5 : subsections 5.4.1.5 and 5.4.2.5).

The Thatcher Government increasingly questioned the efficiency, quality and appropriateness of local government's provision of services and reduced the scale of local government's functional responsibilities, with the creation of central development agencies for urban regeneration, giving special incentives to tenants of public sector housing to purchase dwellings, removing London transport from local authority control and, in education, the removal of polytechnics, the imposition of a national curriculum, and finally giving schools large fiscal incentives to enable them to operate independently of local government (Gibson, 1992 : 55-56). The reasons for these initiatives were the Government's policy to constrain the growth of local government expenditure and reduce the role of the public sector and, at the same time, respond to public complaints about rising local tax levels. These reforms can be described as decentralisation in the form of privatization (Chapter 2 : subsection 2.2.3.4 and Chapter 5 : subsections 5.5.2 and 5.6.2).

Further decentralised reforms were implemented in Britain through the introduction of compulsory competitive tendering in 1988 for services such as waste collection, cleansing services, leisure activities and environmental health. Local authority service producing departments are obliged to bid competitively to provide the service, but have been restricted to competing only for the service in their locality, unlike their private sector counterparts who can compete where they like (Goldsmith, 1992 : 404).

The Thatcher Government's post 1987 programme calls into question the tradition of direct service provision, planning and regulation through local authorities. The role of a local authority will become a matter of "enabling" and



not of "providing", but local authorities will retain responsibility for some services. However, they will not be expected to organise the provision of those services directly. Moreover, local authorities are no longer to be the only or dominant agents of service delivery. The responsibility for services will be shared with other public and private sector organisations (Stoker, 1992 : 157) (Chapter 5 : subsections 5.6.2.3, 5.6.2.4 and 5.7.3).

Thus, the role of local authorities has shifted from that of direct service provider to that of a facilitator. It can be stated that local authorities in South Africa are being encouraged by the central government, and are increasingly entering into private-public partnerships for the provision of facilities and services.

Turning to the United States of America, Norton (1994 : 409) writes that the main functions of local authorities in terms of expenditure are fire fighting, policing, education, sanitation, parks and recreation, airports, parking control and libraries. Other services provided include town and country planning, housing, transport, health and social welfare, roads, public utilities, conservation and cemeteries.

Norton (1994 : 403) continues that there are thousands of special districts which are created to provide a single service, or occasionally a larger but limited range of services to citizens, that is, in addition to the school districts. These special districts provide services such as fire protection, conservation of natural resources, parks and recreation, water, sewerage, drainage, irrigation, libraries, school buildings, mosquito abatement, housing, community development and ports.

Therefore, it can be stated that in the United States of America the various forms of local institutions provide similar services to the general-purpose local authorities in Britain, with the exception of electricity, gas and water supply which are the domain of central government appointed entities in Britain, that is, the so-called trading or utility services.

Furthermore, it can be reiterated that the creation of thousands of special districts in the United States of America has led to the duplication, fragmentation and overlapping of services as well as confusion amongst the local populace as to which entity provides which service in an area.



The functions entrusted to local government are affected by the extent to which local authorities are either dominant in the provision of local services, or share responsibility in a pluralist manner. In the United States of America there is often a partnership between local citizen's groups, local industry and commerce, and local government in the redevelopment of local areas or in other social and commercial enterprises (Hampton & Bowman, 1983 : 196).

Flowing from the foregoing, Common (1994 : 379) and Dilger *et al* (1997 : 22) write that the private provision of local government services is a long established practice in the United States of America. Privatisation through contracting grew apace across a widening range of services, particularly during the 1980's (Chapter 6 : section 6.5).

Thus, decentralisation in the form of privatisation has taken root in Britain, South Africa and the United States of America by way of contracting out services or by entering into public-private partnerships.

The powers and functions of local authorities in South Africa are prescribed in the various Acts of Parliament and provincial ordinances, for example, the **Local Government Transition Act**, 1993, the **Constitution Act**, 1996 and the **Local Government: Municipal Structures Act**, 1998 whilst the functions of local authorities in Britain are prescribed in Acts of Parliament and in the United States of America by the legislation of the states or charters.

Where legislation expressly states that a local authority is to provide a service, then the local authority is compelled to do so, but the powers to provide most of the services listed in provincial ordinances are permissive. The term "permissive" means that a local authority has a choice whether or not to render a service. Parliamentary legislation tends to be coercive, while provincial legislation tends to confer permissive powers. Where Parliament does legislate on compulsory powers there is a tendency in South Africa to impose financial burdens on local government without sufficient sources of income, for example, fire and health services which are only partially subsidised by the state (Craythorne, 1990 : 451-452).

Craythorne (1990 : 494) continues that there has been a tendency on the part of the South African government to delegate functions to local government and



to instruct that those functions be implemented. Invariably these delegations do not bring extra income, which means that the same amount of money has to be spread more thinly, to the detriment of purely local needs. Examples of these delegated functions are civil defence, health, slums clearance, housing, training and regional services council levies (Chapter 2 : subsection 2.2.3.2).

The regional services levy is a tax on the wages and salaries of all employers within the area of jurisdiction of the previous Regional Services Councils, now known as metropolitan and district councils. The regional establishment levy is a levy calculated on the total sales recorded by businesses in the area. The rate of these levies is determined by the Minister of Finance after consultation with the Premier of the respective provincial government.

In concluding, the general-purpose local authorities in Britain, South Africa and the United States of America are required to provide three basic functions, namely, services, legislative and control/executive functions.

The functions or services performed by the general-purpose local authorities in these countries can also be grouped into a number of broad categories, for example, protection and safety services, environmental services, personal social services, cultural and recreational services and trading or utility services.

The important or main differences in the allocation or delegation of functions are that education, housing and policing are being provided by local authorities in Britain and the United States of America, whilst this is not the case in South Africa. In Britain local authorities do not supply electricity and water.

It should, however, be stated that various aspects of education and housing in Britain have been privatised.

## **9.5 LOCAL FINANCE**

In Britain there are three main sources of revenue for local authorities, namely:

- Grants from central government. The largest slice of local authority revenue comes from this source of which there are two kinds, namely, block grant, which is a grant that can be applied to any legitimate purpose, and a range



of specific grants which are earmarked for defined purposes. Since 1979 the proportion of specific grants has increased and block grants have decreased with the view to restraining the expenditure of local authorities.

- **Local taxation.** Local authorities raise taxes via the council tax and the business rate. The council tax was introduced in April 1993 and is a tax on households based on the capital value of residences. The business rate is based on the valuation of the business premises and a standard rate set by the Department of Environment. The council tax and business rate can be compared or is similar to the property tax imposed by local authorities in South Africa and the United States of America.
- **Fees and charges.** The range of services for which fees and charges can be levied by local authorities is well in excess of one thousand. The largest are in the fields of housing, education and social services (Jones, 1995 : 21-22).

In 1979 when the Conservatives came into power all British local authorities had the freedom to determine their own tax level of rates. In 1990 as part of the reforms involving the replacement of domestic rates by the poll tax, control of non-domestic rates had passed to central government and by 1991 the freedom to set local tax levels had been removed. All local authorities were issued revenue expenditure ceilings, exceeding which would subject them to central government capping (Gibson, 1992 : 55). The poll or head tax was replaced in April 1993 by the council tax. The poll tax was not only extremely unpopular, but also difficult and expensive to collect. Rate-capping was introduced by way of an Act of Parliament in order to control excessive increases in rates.

The Conservative Government further set out to centralise financial control over local government as well as to establish increased control over particular policies, such as housing and public transport, where local government traditionally played an important role. Legislation was passed between 1980 and 1986 curtailing local autonomy in the fields of housing, transport, education, health, water, planning, local economic policy and civil defence, which amounted to the reduction of local government powers (Duncan & Goodwin, 1988 : 50). The Government's policies at the time were to reduce the direct providing role of local authorities through the privatisation of functions, that is, mostly by way of horizontal decentralization (Chapter 2 : subsection 2.7.3.1 and Chapter 5 : subsection 5.5.3.2).



By the end of the 1980's approximately a quarter of local authority revenue came from the domestic rate, another quarter from the business rate and half from central grants. Under the system introduced for the 1990's, local government is able to set the level of only one-quarter of its total tax and grant income. It has no discretion over the business rate which is allocated according to government formulas and the rate support grant (Norton, 1995 : 379). Local authorities in South Africa respectively derive some seventeen and three percent of their revenue from property rates and subsidies. In the United States of America property taxes and intergovernmental grants respectively make up some thirty and thirty two percent of the budget of municipalities.

Each of the three levels of government in the United States of America tends to rely on one of the three forms of taxes for most of its revenue. The federal government gets over four-fifths of its revenue from income taxes, state governments get about two-thirds of their revenue from sales taxes, and local governments about three-tenths from property taxes (Norris, 1997 : 49). Each level of government sets the rate of the various taxes each financial year (Chapter 2 : subsection 2.7.3.2).

The sources of local government revenue in the United States of America are set out in Table 9.1 (Norton, 1994 : 414).

**Table 9.1: Sources of Local Revenue in the United States of America**

Source	Percent
Own	67,1
Charges and fees	20,1
Property taxes	25,7
Utilities	9,3
Other (sales tax, income tax, etc.)	12,0
Intergovernmental transfers	<u>32,9</u>
Total	<u>100</u>

Local authorities in the United States of America have become increasingly dependent on state and federal governments for grants, so much so, that it is no longer meaningful to talk of autonomous local governments in terms of financial resources. Like every other developed country, as the range of local



government services demanded by the public has increased, higher level governments have stepped in, either directly or through grants to assist local governments (McKay, 1983 : 135). It can be stated that local authorities in Britain are even more dependent on grants from the central government whilst local authorities in South Africa receive minimal support by way of grants or subsidies from the higher levels of government.

The main sources of revenue of local authorities in South Africa are set out in Table 9.2 (Department of Constitutional Development, 1998 : 10).

**Table 9.2: Sources of Local Revenue in South Africa**

Sources	Percent
Rates on fixed property	17
Service charges	10
Trading enterprises	55
*IGG's	4
Subsidies	3
Site rent	1
Other	<u>10</u>
Total	<u>100</u>

\*Intergovernmental grants for operational expenditure

Local government in South Africa differs significantly from the national and provincial governments in that it generates, on average, over ninety percent of its own revenue and has a different budget cycle. This average figure, however, disguises significant disparities amongst local authorities. Although some of the established municipalities are able to fund reasonable levels of basic services to their communities without any grants, others scarcely have sufficient revenue to retain their core staff, or in some of the newly established municipalities, particularly in rural areas, even to employ any staff (Department of Constitutional Development, 1998 : 10).

One of the principal sources of revenue of local authorities in South Africa is the rates which they are allowed to levy on immovable property. The conditions



under which these rates may be levied as well as the procedures to be followed with the valuation of properties for purposes of assessing rates are laid down in the relevant ordinances of the various provinces (Cloete, 1988 : 266).

Flowing from the foregoing, Gortner (1981 : 355) writes that in several of the states property tax rates have either been frozen or limited, and new sources of revenue have not been available. As a consequence, local authorities in the United States of America have turned to contractual arrangements with private organisations when the cost of service delivery has become too high; special districts have proliferated at the local level; and local authorities have become increasingly dependent on grants from the higher levels of government. Solomon (1988 : 88) states that grants or subsidies from central or provincial government have always formed an insignificant part of local government funding in South Africa, and were confined to ambulance, health, libraries and housing. In concurring, Cloete (1988 : 260) adds that although the sources of revenue of local authorities are prescribed in national and provincial legislation, it is characteristic of South African local authorities to obtain their own income and their dependency on higher authorities for funds is limited.

There are three forms of local taxes in the United States of America, namely, property tax, local sales tax and local income tax. Local sales tax and local income tax respectively account for some five and two percent of the budget of local authorities (Berman, 1999 : 2). Local authorities in Britain and South Africa are not empowered to impose or collect sales and income taxes in their areas of jurisdiction as it is the domain of central government.

With regard to revenue accrued from trading or utility services, local authorities in South Africa derive fifty-five percent of their budget from this source whilst the local authorities in the United States of America some ten percent and in Britain, local authorities do not supply electricity or water.

It can, therefore, be argued that for this reason local authorities in Britain and the United States of America respectively receive grants amounting to fifty and thirty percent of their budget from the higher level/s of government.



In conclusion, the weakening financial position of local authorities in South Africa due to the transformation process and the culture of non-payment for services, additional sources of revenue will have to be considered.

## 9.6 CONCLUSION

As a consequence of the comparative evaluation of the decentralised reforms in Britain, South Africa and the United States of America, a number of differences and similarities in respect of the political systems, local political structures, functions and finances can be highlighted, which are depicted on Table 9.3.

**Table 9.3 : Comparison of Britain, United States of America and South Africa**

D E C E N T R A L I S A T I O N		POLITICAL SYSTEMS	LOCAL POLITICAL STRUCTURES	LOCAL FUNCTIONS	LOCAL FINANCES
	Britain	Unitary state. Developed country. Liberal democracy (Majoritarian). Central and local levels. Rights and status not protected. Central dominated relations.	One and three tiers – relatively strong upper tiers. General-purpose authorities. Significant reforms.	A number of local functions have been privatised, through compulsory competitive tendering or public- private partnerships and/or taken over by central ministries. Agency of central government. Specification detailed in legislation.	Dependent on grants from central government. Close control by central government. Specification detailed in legislation.
	United States of America	Strong British influence. Implemented federal system of government. Developed country. Liberal democracy.  No provision in constitution. Federal, state and local levels. Considerable autonomy from states.	Strong level - no tiers – various forms. General- and single purpose authorities. Attempts at reform.	Various forms of local authorities provide different services. Various services have been privatised by contracting out or public-private partnerships. Agency of the state governments. Specification detailed in legislation. Relative control by the state governments and to a lesser extent by federal government.	Reasonably dependent on grants from federal and state governments. Relative control by state governments and limited control by federal government. Specification detailed in legislation.
	South Africa	Former British Colony. Took over unitary system of government. Advanced developing country. Democracy. Provision in constitution. Central, provincial and local levels. Central and provincial dominated relations.	One and "two tiers" – relatively strong upper tiers. General-purpose authorities. Significant reforms.	Minimal assistance from central and/or provincial governments in the execution of statutory functions. Agency of central and provincial governments. Specification detailed in legislation. Close control by central and/or provincial governments. Limited delegation and privatisation by way of contracting out or public- private partnerships and attempts at devolution.	Minimal dependence on grants from provincial and/or central governments. Close control by central government. Specification detailed in legislation.



South Africa and the United States of America have strongly been influenced by Britain, both being former colonies, in that they inherited the forms, patterns and traditions of, in particular, the English systems of local government. Britain and the United States of America are developed or industrialised nations, whereas South Africa is regarded as a mixture of the developed and developing worlds and, as such, can be classified as an advanced developing nation.

The demographic, geographic, social, cultural and economic conditions in South Africa and the United States of America are similar in their diversity, which can be attributed to the system of government in the said countries, namely, in the case of the former, an attempt at consociation followed by a unitary system with federal features, and in the case of the latter, a federation. Britain on the other hand, being a relatively homogeneous society, implemented a unitary system of government.

The role, status, powers and functions of local government in the Republic of South Africa are specified in the **Constitution Act**, 1996. The United States of America has a Federal Constitution, which is the oldest written constitution still in force in the world. However, it does not make provision for local government and, as such, local authorities are subject to the constitutional prerogatives and prohibitions of the states in which they are situated. Britain, on the other hand, does not have a written constitution and accordingly local government has no guaranteed legal status. Local governments in Britain and the United States of America are respectively established by the central government and the states and in South Africa by the Constitution through national legislation which in turn empowers the provincial governments to establish municipalities. Acts of Parliament prescribe the political structure, systems, developmental and functional activities of local government in South Africa.

Britain is a unitary state and is known to be the homeland of majoritarian democracy. The United States of America has a federal system of government and complies with all the characteristics of a liberal democracy, which implies that majority rule is balanced by constraints in the exercise of power. South Africa, on the other hand, has a unitary system of government with federal features and can be regarded as a democratic state since the 1994 general elections.



Britain has two distinct levels of government and administration, namely, central and local, both originating in appointments and grants of liberties by the Crown. In terms of the Federal Constitution, the United States of America comprises national and state governments, the latter of which is responsible for local government, that is, three levels of government even though the local level is not enshrined in the Federal Constitution. South Africa is a unitary state with three spheres (levels) of government, namely, central or national, provincial or regional and local.

Local government in England comprises a three-tier structure in most non-metropolitan areas and a single tier in metropolitan areas, and in Scotland of a single or unitary tier. The local authorities are representative general-purpose providers of services.

Local government in the United States of America can primarily be divided into cities, counties and special districts. Even though there are various forms of local units in the United States of America, the structure is not divisible or hierarchical as in the style of Britain. The cities and counties are representative general-purpose authorities, whereas special districts are primarily established to carry out one function or service. Local governments can achieve a significant degree of autonomy and control over their own affairs through a "home rule" provision in the constitutions of their respective states, which is not the case in Britain or South Africa.

In South Africa local government has traditionally, comprised one tier of representative general-purpose authorities. Parliament is the dominant legislature in municipal affairs and sees to it that the provincial and local authorities execute their powers and functions effectively. However, the final phase of the transformation of local government in South Africa which will come into effect towards the end of 2000 will bring about a "two-tier" structure of local government in non-metropolitan areas comprising district and local councils and a single-tier structure in metropolitan areas, the latter of which is contrary to the accepted objectives and values of decentralisation, which is the belief and ideology of the populace of America.



In England the counties in the non-metropolitan areas are primarily responsible for strategic planning, highways, traffic, transport, drainage, refuse disposal, town development, parks and recreation, fire, police and consumer protection. The district councils in metropolitan and non-metropolitan areas are responsible for similar functions plus housing, environmental health, education, libraries and personal social services. In Scotland the unitary authorities are responsible for education, social work, strategic planning, roads, water, consumer protection, police, fire, valuation, housing, planning and building control, libraries, environmental health and refuse collection and disposal.

The functions performed by the various forms of local institutions in the United States of America are similar to those performed by the general-purpose local authorities in Britain and South Africa, with the exception of electricity and water supply which is the domain of central government appointed agencies in Britain. On the other hand, local authorities in South Africa are not responsible for education, housing and policing which is the domain of central government.

The scale of functional responsibilities of local government in Britain was reduced in the 1980's by way of privatisation which included special incentives for tenants to purchase council dwellings, the removal of public transport, and, in education, the removal of polytechnics from local control. Furthermore, services, such as waste collection, cleansing, leisure and environmental health were privatised with the introduction of compulsory competitive tendering.

The emphasis of local government in Britain, South Africa and the United States of America has shifted from that of direct service provision to that of an "enabling" or "facilitating" authority by way of contracting out services and sharing of responsibility for the provision of services with the private sector or voluntary organisations.

In the United States of America thousands of so-called special districts have been established to provide a single service or occasionally a larger but limited range of services which has resulted in the duplication, fragmentation and overlapping of service delivery and confusion amongst the local populace. In



Britain and South Africa there are only a limited number of so-called single or special purpose local institutions which are appointed by the central government.

The central government of South Africa has over the years delegated a number of functions to local government, for example, aspects of town and city planning, building control, civil defence, health, slum clearance, housing and training. However, the appropriate funds for these delegated functions have not always been forthcoming which places financial strain on local government.

As has been the case in Britain and the United States of America, there has been considerable rhetoric in South Africa about the privatisation of activities of public institutions including local authorities, which may result in private enterprises taking over some further activities of local institutions.

In Britain the principal sources of revenue of local authorities are derived from block, general and specific grants from central government, local taxes which are derived in the form of the council tax and the business rate and fees and charges. The local authorities are also dependent on grants from central government, which amounts vary from one to the other authority, that is, on average some fifty percent of their budget.

The chief sources of revenue of local authorities in the United States of America are derived from charges and fees, property, sales and income taxes and general and categorical or specific grants from the federal and state governments. As in Britain, local governments in the United States of America have become increasingly dependent on federal and state grants which in part can be attributed to the limits placed on property tax.

In South Africa the main sources of revenue are property rates, services charges, trading enterprises in respect of electricity, gas and water, grants or subsidies and regional services councils levies, of which the income derived from the rates of immovable property and trading services, that is, the supply of electricity and water, form the largest portion of the revenue budget.



Unlike the situation which exists in Britain and the United States of America, local authorities in South Africa obtain most of their own revenue and consequently their dependency on higher levels of government for grants or subsidies is limited at this stage.

In the next chapter proposals will be developed for an effective system of local government in South Africa in terms of the decentralised reforms of the selected developed and developing countries and in respect of the criteria identified for the dissertation.



## CHAPTER 10

### PROPOSALS FOR LOCAL GOVERNMENT IN SOUTH AFRICA

#### 10.1 INTRODUCTION

Local government in South Africa has undergone significant decentralised reforms, particularly since the beginning of the transformation process in 1994 by the holding of the first democratic national elections, which were followed by municipal elections in 1995/96 in the various provinces in which all the different population groups could participate.

The final phase of the transition process will be implemented after the next municipal elections which are scheduled to take place towards the end of the year 2000, and which will bring about further reforms to local government when the provisions of the **Local Government: Municipal Structures Act**, 1998 and the **Local Government: Municipal Systems Bill**, 1999 will be implemented.

The purpose of this chapter is to formulate proposals for an effective system of local government in South Africa based on the objectives and values of decentralisation and taking into account the decentralised reform initiatives and trends of the developing and developed countries selected for this dissertation in respect of the identified criteria, namely, political system, local political structure, functions and finance.

In the ensuing sections of this chapter the status of South Africa as a developed or developing country, political system, local political structure, functions and finance will be examined and proposals formulated for local government within the developmental context of the country, whereupon a summary of the chapter will be made.



## 10.2 DEVELOPED VERSUS DEVELOPING COUNTRY

The countries selected for this study, that is other than South Africa, are classified as both developed and developing nations with either federal or unitary systems of government (Chapter 2 : section 2.3 and subsections 2.4.2.1 and 2.4.2.2).

Table 10.1 depicts the classification and systems of government of the selected countries.

**Table 10.1: Classification and Systems of Government**

Selected Country	Classification of Country	System of Government
Britain	Developed	Unitary
Botswana	Developing	Unitary
Nigeria	Developing	Federal
United States of America	Developed	Federal

South Africa can be classified as an advanced developing country in that it has characteristics or features common to both developed and developing countries.

The features common to developing countries which are inherent in South Africa are as follows:

- being a subject of European colonialism, the systems of governance have been imitative rather than indigenous;
- low standards of living and poverty in respect of the majority of the population;
- high rate of population growth and dependency burdens in respect of the majority of the populace;
- high and rising levels of unemployment;



- significant dependence on agricultural production and primary product exports;
- dependence and vulnerability in international relations;
- substantial illiteracy, inadequate training and lack of skills;
- low levels of productivity;
- corruption and nepotism; and
- considerable discrepancy between form and reality, that is, the gap between expectations and realities in, for example, service delivery and the announcement and implementation of decentralisation policies and programmes, is wide.

On the other hand there are a number of features not common to developing countries which are prevalent in South Africa, namely:

- there is a marked degree of expertise and professionalism in the fields of industry, science, technology, administration and management;
- the political system is stable;
- relatively high standard of living amongst a significant proportion of the population;
- low rate of population growth amongst a significant proportion of the population;
- substantially developed economy; and
- relatively strong and vigorous civil society (Chapter 8 : section 8.2).

Flowing from the foregoing, there are a number of destabilising factors which usually arise or come to the fore when a country or its governmental structures and systems are going through a process of transformation, namely:

- the exigencies of crises management;
- popular demands, that is, disappointment with progress of reforms;
- emerging ethnic, cultural and linguistic tensions;
- lack of experience with democratic practices in a market-based society;
- slow progress in the privatisation of state industries and other assets; and
- the absence of a strong independent judiciary (Hollis & Plokker, 1995 : 21).



The process of transformation in South Africa has, and is suffering from most of the destabilising factors or maladies listed above, that is, with the exception of the independent judiciary. During the process of reconciliation and transformation which South Africa is going through, it is imperative that decentralisation is used for *inter alia* the purpose of nation building.

In this regard, Rondinelli *et al* (1984 : 6) state that decentralisation should be seen as a way of mobilising support for national development policies by making them known at local level. Greater participation in development planning and management promotes national unity by giving groups in different regions in a country a greater ability to participate in planning and decision-making and, thus, increase their stake in maintaining political stability.

Following from the foregoing, it should be borne in mind that Section 153 of the **Constitution Act**, 1996 stipulates that municipalities in South Africa must structure and manage their administration, budgeting and planning processes to give priority to the basic needs of their communities, to promote the social and economic development of their communities and to participate in national and provincial development programmes.

In the context of decentralisation, the World Assembly of Cities and Local Authorities held in Istanbul from 30 to 31 May 1996, called upon the international community to frame, in partnership with the representative associations of local authorities, a worldwide Charter of Local Self-Government setting out, for guidance of all national governments and international agencies, the basic principles which should underlie any democratic local government system. It urged that the basis of this Charter should reside in the principles of subsidiarity and proximity, whereby decisions should be taken at the level closest to the citizens and that only those tasks which the local level cannot effectively carry out alone should be referred to higher levels of government (Unknown, 1998 : 2). The aim is to have the Charter promulgated by the United Nations General Assembly during 2001.



It can be stated that, following the foregoing initiative, the Africities 2000 Summit held in Windhoek from 15 to 20 May 2000 adopted the Windhoek Declaration, which includes the following "African Vision on Decentralisation":

- ❑ the purpose of decentralisation should be to devolve authority as well as political, administrative and financial decision-making powers and policy – implementation responsibilities to sub-national governments;
- ❑ decentralisation should be, to sub-national governments which are representative of and accountable to all sectors of the local population, including marginalized and disadvantaged groups;
- ❑ the underlying purpose of decentralisation, to bring government closer to the people, to empower people, to strengthen democratic values in society, and to contribute to social and economic development, are consequential for the survival of democracy, its credibility and functional purpose;
- ❑ decentralisation should be, to levels of sub-national governments and institutions which enable effective community participation in sub-national governance;
- ❑ government to, by, for and with the people at sub-national levels is considered as one of the pillars stabilizing and sustaining democracy in the society;
- ❑ interaction and interfacing between sub-national authorities and central government and between sub-national authorities and their clientele;
- ❑ decentralisation should involve the transfer to sub-national authorities those powers, functions and responsibilities necessary to enable them to:
  - provide services for the population at sub-national level efficiently, competitively and effectively;
  - provide a conducive environment for development at sub-national level; and
  - develop and manage local resources in a sustainable manner;
- ❑ decentralisation should include the provision of access to resources needed to execute the mentioned powers and functions efficiently, effectively and purposefully, including financial and human resources;



- ❑ financial resources should be available to authorities at sub-national level in a manner which is reliable, predictable, transparent, accountable, sustainable and equitable;
- ❑ decentralisation as a principle should be enshrined in the constitution;
- ❑ decentralisation is a never-ending process implemented in stages but continuously; and
- ❑ decentralisation should accept the challenge of globalisation by strengthening capacity building at sub-national level and to make them competitive entities in the global economy (Mettler, 2000 : 13).

Turning to the formulation of an effective system of local government, the prevailing conditions and features in South Africa with regard to developed versus developing country will taken into account, as well as note taken of the effects of the reform or transformation process.

Furthermore, due to the close interrelationship which exists between the political system, local political structure, functions and finance, it is imperative that there is an integrated plan in place, that is, emphasis or focus should not be placed on only one aspect of transformation but must be viewed holistically, for example, a country with a federal system of government will find it difficult to implement a centralised model or system of local government finance.

### **10.3 POLITICAL SYSTEM**

South Africa being an advanced developing country is relatively poor in comparison with most developed nations and, as such, due to suffering from most of the maladies common to developing nations, cannot afford nor will it be able to cope with a federal system of government as found in the United States of America.

However, taking cognisance of the objectives and values of decentralisation such as nation building, democracy, freedom, efficiency of administration, social and economic development, responsiveness and accountability, policy diversity, political participation and countervailing power, most of which are contained in



the **Constitution Act**, 1996, a system of government with stronger features of federalism is proposed for South Africa with the view to *inter alia* further entrenching the foregoing objectives and values of decentralisation as well as to forestalling some of the characteristics of developing nations, such as, corruption and nepotism by promoting a culture of checks and balances (Chapter 2 : subsections 2.2.1, 2.2.4, 2.4.2.2, 2.5.2 and 2.5.3.3).

Flowing from the foregoing, it can be stated that despite the lack of political unity, many governments have used decentralisation as a nation-building instrument by introducing representative local government. Rondinelli (1981 : 136) writes that decentralisation increases political stability and national unity by giving groups in different parts of the country the ability to participate more directly in decision-making, thereby increasing their stake in maintaining the political system which feature does not come to the fore under military regimes of which Nigeria is a prime example, even though it is a federation.

In addition, it can be stated that despite a written constitution which guarantees the rights and status of local government, Nigeria has been in political turmoil for most of the period since independence which can *inter alia* be ascribed to the fact that most of the various governments and regimes have ignored decentralisation as a vehicle for *inter alia* nation building.

The following macro organisational proposals with regard to the political system in South Africa are made, details of which will be addressed in chronological order in the ensuing subsections, namely:

- the separation of the legislative and central executive;
- the granting of greater guaranteed autonomy to the provincial and local governments and devolving greater power to the provincial governments; and
- the provision of local charters and listing of municipalities in the Constitution of 1996.



### 10.3.1 LEGISLATIVE AND CENTRAL EXECUTIVE

Governments with a unitary system of government have proven to be less effective for larger than for smaller nations, and they do not allow for ethnic and regional differences and for each group to exercise some degree of autonomy for themselves, for example, Britain has been the subject of tension because some citizens in Wales, Scotland and Northern Ireland have argued that the system does not give regional and ethnic groups as much power as they would like (Mahler, 1995 : 30).

Flowing from the foregoing, it can be stated that South Africa did not adopt a pure form of unitary government due to *inter alia* the diverse cultural, demographic, ethnic, religious and social conditions prevalent in the country (Chapter 2 : subsection 2.2.1.3).

In terms of the provisions of the Constitution of 1996, South Africa is a sovereign and democratic state founded *inter alia* on the value of a multi-party system of democratic government to ensure accountability, responsiveness and openness (Chapter 2 : subsection 2.2.4.1).

However, in a multi-party democracy like South Africa, the Government of the day wields extensive executive powers as in the case of countries with a pure unitary system of government, for example, Botswana and Britain and whereby the Government dominates the local sphere of government, which can be contrary to some of the criteria of decentralisation, such as, efficiency of administration, policy diversity and countervailing power (Chapter 2 : subsections 2.2.1.4, 2.2.4.2 and 2.2.4.4).

It is, therefore, proposed that the presidential system of executive authority in South Africa, in whose Constitution there are some significant features of federalism, be extended to make provision for a system of "checks and balances", whereby the President or Head of State will stand directly accountable and responsible to the public and whereby the executive and



legislative branches of Government will be given freedom to function independently (Chapter 8 : section 8.2 and Chapter 9 : section 9.2).

Consequently, it is proposed that the Presidency be separated from the legislature, that is, Parliament, and that only the executive authority of the Republic of South Africa be vested in the President, namely, the various state departments. Thus, the President should be elected directly by the populace and not by the legislature, that is, the National Assembly.

Turning to the local sphere of government, the proposed separation of the legislature and central executive should develop or promote a culture of checks and balances in South Africa. According to Oyelakin (1995 : 32), the implementation of the Executive Federal Presidential System of Government at the local government level in Nigeria in 1989 was designed to *inter alia* strengthen the system of checks and balances in countering excesses, corrupt manipulations and abuse especially with regard to the management and application of public funds and resources (Chapter 4 : subsection 4.4.4.1).

The proposed separation of powers between the legislature and executive at the national sphere of government will bring it into line with the practice or system of government at the local sphere where the legislature and executive are separated, that is, the council and town clerk and his/her heads of department. This aspect will, however, not be elaborated on as it does not form part of the study (Chapter 1 : section 1.5).

Finally, the foregoing proposal means that each branch, that is, legislature and executive will be operated by entirely distinct persons and that one branch will be able to keep the other from invading its powers, which should in turn alleviate corruption.

In the following subsection certain proposals will be made to enhance the autonomy of the provincial and local spheres of government.



### 10.3.2 PROVINCIAL AND LOCAL GOVERNMENT AUTONOMY

The provincial level of government should form a penetrative link between the central and local levels of government, have powers to effectively perform functions of regional or provincial significance, develop the structures and systems for local government, act as co-ordinating forum for local government in the provinces and assist local governments where possible if the need arises (Chapter 2 : subsection 2.5.3.3).

The provisions of the Constitution of 1996 stipulate that in cases where a province or a municipality cannot fulfill an obligation in terms of legislation or the Constitution, the national or provincial executive respectively may intervene by *inter alia* assuming responsibility of the relevant obligation, which can, therefore, entail the removal of powers and functions from the local sphere of government because of a lack of funding which may be beyond their control due to, for example, the new developmental role, the transformation process, inadequate subsidies and the culture of non-payment for services rendered.

In a democratic state like South Africa, the removal of powers and responsibilities from the elected local and provincial governments is not conducive to the objectives and values of decentralisation, for example, nation building, democracy, freedom, responsiveness and accountability as well as policy diversity and countervailing powers, particularly for reasons of financial incapability during the transformation process (Chapter 2 : subsections 2.2.1 and 2.2.4).

Flowing from the foregoing, it should be stated that the decentralisation and democratisation of power serve democratic consolidation or nation building by *inter alia* removing barriers to participation, enhancing the responsiveness and accountability of government, testing innovations in governance, diminishing the winner-takes-all in politics, which is the case in a unitary state, by giving the opposition or minor political parties a chance to have a share of power to learn the complexities of governing, and to establish political credibility and



responsibility by developing experience first at the lower levels of government (Diamond *et al*, 1995 : 46).

It is, therefore, proposed that the relevant provisions of the Constitution of 1996 be amended to give the local and provincial spheres of government the guarantee or right to grants from either the provincial or central government in accordance with predetermined criteria and formulae if they cannot effectively execute a statutory obligation. In the event of a tier of local government or a local authority not being able to effectively perform a function, the identified function could be transferred to an upper tier authority within the sphere of local government or to a representative special-purpose local institution, thereby keeping such function within the local sphere of government (Chapter 2 : subsections 2.4.3.3, 2.4.3.4, 2.5.1.2, 2.5.2, 2.6.2, 2.7.1.2 and 2.7.2.1; Chapter 7 : subsections 7.3.3, 7.3.4 and 7.4.4; Chapter 8 : section 8.4 and Chapter 9 : section 9.4).

Turning to the role of the intermediate or second level of government in the United States of America, Chandler (1993 : 140) writes that local authorities are established through the constitutional and legislative provisions of their respective states. Keller & Weinstein (1991 : 61) add that local authorities possess the powers that are granted to them by the state through "enabling legislation" and their existence, form and property are subject to state control.

In terms of the provisions of the **Constitution Act**, 1996, national legislation must define the different forms or types of municipality that may be established within each category as well as to determine the systems to assist local government to achieve its constitutional mandate.

Bearing in mind the objectives, forms and values of decentralisation as well as the diverse conditions prevalent in South Africa as set out under subsection 10.3.1, it is proposed that the relevant provisions of the Constitution of 1996 be amended to empower the provincial sphere of government to determine the structures and systems of local government within their respective areas of jurisdiction, that is, the devolution of power and authority to the second sphere



of government within the parameters of the Constitution (Chapter 2 : subsections 2.2.1, 2.2.3.3 and 2.2.4; Chapter 6 : subsections 6.3.1 and 6.4.1; Chapter 8 : section 8.2 and Chapter 9 : section 9.2).

In the ensuing subsection proposals pertaining to home rule charters and listing of local authorities will be made.

### **10.3.3 LOCAL CHARTERS AND LISTING**

In a democracy such as the United States of America, municipalities receive their corporate status through state charters for which provision is made in the various constitutions of the states, of which there are four kinds.

The conventional concept of decentralisation is the transfer of powers and functions to elected local authorities which exercise a significant measure of autonomy over their own affairs. The arguments for this relate to responsiveness and accountability, that local governments are closer to the citizens and are, thus, better able to make choices that reflect the needs and priorities in their areas of jurisdiction than is a remote central government, and that it is easier to hold local elected representatives accountable for their decisions (Devas, 1997 : 352) (Chapter 2 : subsections 2.2.1, 2.2.4 and 2.4.2.2).

Home rule is a method through which the citizens of a city may elect to draft their own charter within the state's or province's guidelines and recognise the right of local authorities to exercise broad discretionary authority. In other instances so-called general law charters are granted to local authorities in accordance to their classification with regard to population, geographical location or essential evaluation, special charters establish each local authority by a separate and distinct Act of the state legislature and optional charters enable local voters to choose one of the several established forms of local government in the United States of America (Chapter 6 : subsections 6.4.1, 6.4.2.2, 6.4.2.3, 6.4.2.4 and 6.4.3).



In terms of the provisions of the **Constitution Act**, 1996, municipalities are creations of the Constitution or central government through which legislation the provincial governments are empowered to establish municipalities. Bearing in mind that South Africa suffers from most of the characteristics or features of a developing nation and, as such, is also a relatively poor country, it is proposed that provision be made in the Constitution which will empower the provincial sphere of government to incorporate local authorities through two kinds of charters which are to be enshrined in the constitutions of the provinces, namely, the so-called general law and home rule charters (Chapter 9 : section 9.2).

Flowing from the foregoing, home rule charters should be made applicable to the large cities in South Africa, that is, metropolitan councils, whereby the populace of the city, for example, Cape Town, through local action or a referendum frames and adopts the charter without reference to the provincial legislature. With regard to the other local authorities, namely, district councils, municipalities (urban and rural towns) and villages, it is proposed that a general law charter be made applicable, that is, through which charters are granted according to their classification in terms of population, geographical location or essential evaluation (Chapter 2 : subsection 2.4.3.5).

The kinds of charters proposed have been limited to two, due to the fact that South Africa is an advanced developing country as well as the prevailing circumstances or situation of local government in the country in terms of *inter alia* resources which has an impact on the degree of decentralisation (Chapter 2 : subsection 2.2.3).

Flowing from the foregoing, and in order to further entrench the rights and legal status of local authorities, it is proposed that as soon as the process of demarcating the new municipal boundaries has been finalised, a schedule be added to the Constitution of 1996 depicting the names of all the new local authorities in South Africa which will guarantee their territorial boundaries, save only with amendments to the Constitution. A similar decentralised safeguard has been provided in the Nigerian Constitution of 1989 with the purpose of



enhancing the political authority of municipalities (Chapter 4 : section 4.3 and Chapter 8 : section 8.2).

The foregoing decentralised proposals will *inter alia* enhance local autonomy, responsiveness and accountability and will be a significant shift away from the traditional belief in primarily unitary states that local government is inferior to central and/or provincial government and merely a political subdivision which has been created as a convenient agency for exercising such governmental powers as may be entrusted to it, due to the fact that the said proposals will give the various local authorities significant autonomy from the provincial legislature by allowing them to exercise independent power over their own affairs without the need for provincial enabling legislation.

The rights and legal status of local government will also be enhanced which in turn will impact on the intergovernmental relations, which are presently being dominated by the higher spheres of government and based on authority, power and prescription which can be typical of a unitary system of government (Chapter 2 : subsection 2.4.3.2).

The proposed granting of charters to the local authorities can be linked to the various tiers proposed for local government, details of which will be addressed in the ensuing subsection.

## **10.4 LOCAL POLITICAL STRUCTURE**

The fundamental values relating to local political structures must *inter alia* include individual participation, pluralism and representative democracy as well as efficiency of administration, each of which has differing consequences for the local government structure. The cornerstone of democracy is that the role of local government is to reflect the will of the people and direct participation in local government is the best means of achieving this goal (Wolman, 1995 : 136).



Bearing in mind the objectives and values of decentralisation in a democratic state, the fact that South Africa suffers from most of the maladies of a developing country and that the Constitution of 1996 contains several features of a federation, a local government structure based on a weak unitary model is proposed whereby the intermediate or second tier comprises general-purpose local authorities which execute powers and functions which need to be provided close to the communities and, as such, are given the freedom to play an active and important role in both as focal points for community interests and as providers of a variety of services, that is, a strong tier of local government. On the other hand, the upper tier would execute the powers and functions of district and metropolitan significance and the third tier would have limited powers and functions, that is, relatively weak tiers of local government (Chapter 2 : subsections 2.2.1, 2.2.4, 2.4.2.1, 2.4.2.2, 2.4.3, 2.5.1, 2.5.2 and 2.5.3.3).

The weak unitary model contains features of the federal model in that the upper tier (secondary) is relatively weak in terms of authority and power, the second tier (primary) being strong with wide powers and functions due to its close proximity to the community and the third relatively weak primarily due to its developmental/rural context and limited resources.

However, the proposed third tier of local government promotes the values and objectives of decentralisation, such as, democracy, freedom, responsiveness and accountability, public participation and countervailing power in that, for example, these institutions act as pressure groups to protect the interests of their communities and serve as a valuable communication link with the higher tier/s of local government (Chapter 5 : subsections 5.4.1.4 and 5.4.1.5).

Within the context of a federal model, that is, a strong sphere of local government, the proposed local political structure is broadly based on the one which existed in Britain during the 1970's and 1980's which was subsequently abolished in England and Scotland for purely political reasons which were not based on sound technical or scientific principles. The three-tier structure has, however, remained in tact in most of the non-metropolitan areas in England since 1974 (Chapter 5 : subsections 5.4.1.3, 5.4.1.4, 5.4.2.1, 5.4.2.6, 5.5.1 and 5.6.1).



Cognisance was also taken of the organisation and role of the cities, counties, towns and villages in the United States of America, the local political structures which existed in Nigeria up until the demise of the First Republic in 1966 as well as the forms of local institutions in Botswana, bearing in mind the prevailing developmental context of local government in South Africa, details of which will be addressed in the following two subsections (Chapter 3 : subsections 3.4.1 to 3.4.3; Chapter 4 : subsection 4.4.1 and Chapter 6 : subsection 6.4.2).

In addition it is proposed that land boards be established in the non-metropolitan/district council areas where there is tribal land as well as the appointment of commissioners or officers in all the districts to *inter alia* co-ordinate and facilitate developmental programmes and projects (Chapter 3 : subsections 3.4.4 and 3.4.5 and Chapter 4 : subsections 4.4.1.1.1, 4.4.1.2.1 and 4.4.1.3.1).

It should, however, be stressed that the number of inhabitants is an important factor when determining the geographic base and structure of local authorities. In order to meet ever increasing and more complex demands, local authorities should be large enough to maintain an adequate staff and facilities. On the other hand, the local authorities should also be small enough to preserve the local community atmosphere and spirit in which each citizen has an opportunity to be politically effective, both of which are accommodated in the proposed local political structure for South Africa, that is, on the second and third tiers (Chapter 2 : subsections 2.2.1.4, 2.2.1.5 and 2.5.1.1).

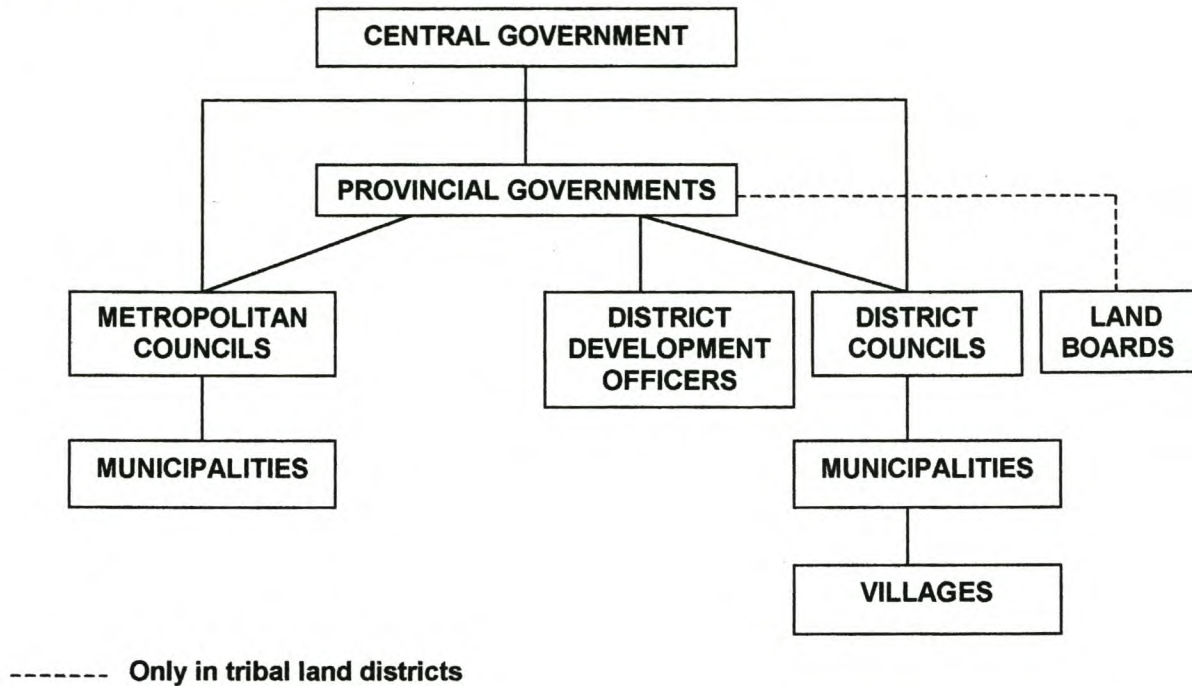
The following local government structures are proposed which will be addressed in chronological order in the ensuing subsections:

- a two-tier structure in metropolitan areas; and
- a three-tier structure in non-metropolitan areas.

The proposed macro-organisational structure of local government for South Africa is depicted in Figure 10.1.



**Figure 10.1: Proposed Local Government Structure**

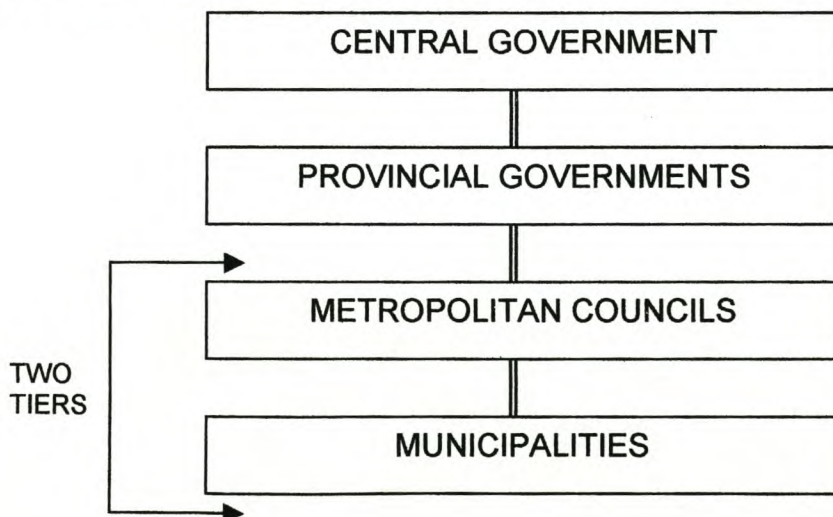


It is proposed that the local political structures in South Africa be split into metropolitan (urban) and non-metropolitan (rural) areas as is the case in parts of England and in the United States of America in respect of the cities and counties as well as is in the process of being implemented for the final phase of the transformation of local government in South Africa.

#### 10.4.1 METROPOLITAN AREAS

The proposed macro organisational structure of local government in the designated metropolitan areas in South Africa is depicted in Figure 10.2.

**Figure 10.2: Proposed Local Government Structure in Metropolitan Areas**





With regard to the proposed two tier local structure for metropolitan areas, it is proposed that the metropolitan councils (upper tier) and municipalities (lower tier) are directly elected in order that these bodies may be responsive to the needs and accountable for their deeds to the communities which they represent. The two-tiers should each exercise legislative, executive and administrative powers and functions. The upper tier should undertake functions of metropolitan significance, such as, the bulk supply of electricity and water, whilst the lower tier should perform functions of local significance and best suited to be carried out closer to the people, for example, libraries and parks and recreation (Chapter 2 : subsections 2.2.4.1 and 2.5.1; Chapter 5 : subsections 5.4.1.4, 5.4.1.5 and 5.4.2.5; Chapter 7 : subsections 7.4.2.2.1, 7.4.2.3 and 7.5.2).

At the lower or second tier, it is proposed that the municipalities which existed in the metropolitan areas prior to the 1995/96 municipal elections, that is, before their amalgamation into the so-called metropolitan substructures, be re-established with **revised** boundaries, as was the case in respect of the towns in the non-metropolitan or rural areas which were amalgamated with the adjacent townships/Black local authorities, with the view to fostering the objectives and values of decentralisation by *inter alia* bringing local government closer to the electorate.

It is also proposed that all metropolitan councils should be established by way of home rule charters as is the case with most of the larger cities in the United States of America, whilst the municipalities (urban towns) should be created by their respective provincial governments through general law charters (Chapter 6 : subsections 6.4.1, 6.4.2.2 and 6.4.2.3 and Chapter 9 : section 9.2).

The establishment of thousands of special districts or single-purpose local authorities in metropolitan areas, as is the case in the United States of America, is not mooted for *inter alia* the following reasons:



- it leads to duplication, fragmentation and overlapping, for example, provision of services across the jurisdictions of a number of general-purpose local authorities;
- they create confusion among the local populace, that is, which authority is responsible for what service and in which area;
- they are usually appointed by central government, that is, they are non-representative structures;
- they negate a multi-tier structure of representative local government; and
- they would negatively impact on the financial resources of local authorities, particularly, if appointed to undertake trading services, such as, electricity and water (Chapter 2 : subsection 2.5.1; Chapter 6 : subsections 6.3.3 and 6.4.2.4 and Chapter 9 : section 9.3).

Reverting to the proposed two-tier structure of local governance in metropolitan areas, the two Royal Commissions' recommendations with regard to the local political structures in England and Wales as well as Scotland, led to the establishment *via* the **Local Government Act**, 1972 of a two-tier system of representative general-purpose local authorities consisting of metropolitan counties and districts in England. In Scotland the **Local Government (Scotland) Act**, 1973 introduced a two-tier system of local government in the mainland comprising regions and districts.

Martlew (1988 : 7) defends the previous two-tier local structure in Scotland which comprised thirty three counties on the upper tier and twenty one large and one hundred and seventy six small burghs on the lower tier in urban areas (see Figure 5.2), by stating that it was more democratic than the system of amalgamated jurisdictions comprising nine regional and fifty three district councils and that it was by no means certain that services would be provided more efficiently or effectively by these larger local government units. Page (1980 : 282) adds that the enlarged size of the local authorities produces a remoteness of the councillor from his or her constituency (Chapter 5 : subsection 5.4.2.6).



In concurring, Derksen (1988 : 44) adds that an evaluation of the many attempts to reform local government in the Netherlands has disclosed that the amalgamation of local authorities does not improve the administrative capacity of local government. The idea that mergers will improve the quality of local government cannot be substantiated, neither is it apparent that amalgamation helps local authorities to fulfill their functions effectively nor that it lowers the operational costs of local government.

Derksen (1988 : 45) continues that size does play a role, but the pertinence of size for the administrative capacity for solving local problems and satisfying local needs, not only is limited but also overstated by many policymakers. Many tend to forget the fact of smaller problems and less differentiated needs in smaller municipalities. Furthermore, each municipality has its own character, culture and, more important, its own functions.

Flowing from the foregoing, it can be stated that a similar experience occurred in South Africa in 1995/96 when numerous town councils in metropolitan areas were amalgamated into the so-called metropolitan local councils or substructures, which scenario will be further exacerbated by the creation of the mega- or uni-cities.

The abolition of the two-tier system of local government in metropolitan areas in England during the mid-1980's was, according to Chandler (1991 : 27), due to the fact that these councils were largely controlled by the then opposition Labour Party who was highly critical of the Government's policies and programmes. Norris (1997 : 126) adds that their abolition increased fragmentation in that numerous special-purpose local authorities were appointed to carry out their functions, that is, the functions were not removed from the local sphere of government. In South Africa, however, the Constitution of 1996 makes provision for the higher sphere of government to take over local functions in the event of local authorities not being able to fulfill their obligations in terms of the Government's policies and programmes (Chapter 5 : subsections 5.5.1 and 5.7.2; Chapter 7 : subsection 7.4.3 and Chapter 9 : section 9.3).



Turning to the abolition of the two-tier local structure in mainland Scotland, McCrone *et al* (1993 : 10) write that had the Conservative Party controlled a greater proportion of the regional and district councils by 1991, the outcry for change to the local government structure would not have appeared on the political agenda (Chapter 5 : subsections 5.6.1 and 5.7.2 and Chapter 9 : section 9.3).

The proposed form of directly elected metropolitan governance complies with the key objectives and values of decentralisation, such as, nation building, democracy, freedom, efficiency of administration, responsiveness and accountability, policy diversity, public participation and, in a plural society such as in South Africa, countervailing power. In other words, direct representation is linked to the will of the electorate in a municipal area which in turn will influence or impact on the type of functions or services to be delivered, where capital projects should be undertaken, the allocation of funds to which projects, services and suburbs, which decisions are in turn made by the council comprising the political representatives which have been chosen by the local electorate. Thus, the foregoing aspects can vary from the one to the other municipal area in accordance with the needs and will of the local populace which in turn *inter alia* fosters democracy and preserves accountability, and is not the case with non-representative local institutions (Chapter 2 : subsections 2.2.1, 2.2.4, 2.5.1, 2.5.2 and 2.5.3.3).

A synopsis of the comments submitted or presentations made by the City of Tygerberg on the **White Paper on Local Government (Final Draft)**, 1998 (1998 : 1 - 4) advocating a two-tier structure in the Cape Metropolitan Area is appended hereunder.

- The unitary-tier model has no inherent advantages over the “two-tier” model presently (1998) employed in the Cape Metropolitan Area.
- The criteria for local governance as set out in the said White Paper are fully addressed by the existing “two-tier” structure in the Cape Metropolitan Area such as integrated planning, redistribution, accountability, social and economic development and democratisation.



- The White Paper is silent on critical issues which argue against the single-tier structure, such as, remote from community needs, inflexible and rule bound, slow and cumbersome in decision-making and departmentalistic, due to the need to create large functional departments.
- The White Paper does not take into account the following salient issues:
  - the option to choose and recognise regional differences in that the country's metropolitan areas vary considerably in terms of the decentralisation of economic activity, the geography of apartheid, the skills and capabilities of officials, the patterns and systems of service delivery and the progress made in local government restructuring and integrated development planning;
  - the need to down-size bureaucracies and achieve economies of scale;
  - the need for local government to be accessible to build effective local partnerships within metropolitan areas, that is:
    - to achieve job creation and economic empowerment requires close working relationships and partnerships between local government, local community and business interests;
    - it is difficult to mobilise business interests across a large metropolitan area due to the fact that specific businesses and industries will be most inclined to contribute to development in areas where they can see results and benefits to their investments; and
    - experience has shown that smaller municipalities are closer to economic problems and needs and more responsive to act entrepreneurially; and
  - the flexibility inherent in the two-tier model in that it provides for the shifting of functions between tiers, the re-demarcation of existing boundaries and for responsive integrated development planning processes. A problem in one of the present metropolitan local councils will not cripple the entire metropolitan area, and lessons can be learnt from successful achievements.

It should, however, be stated that the existing local political structure does not truly comprise "two-tiers", even though many people have the perception that



this is the case. In essence the transitional metropolitan councils are horizontal extensions of the urban municipalities (Chapter 7 : subsections 7.3.2 and 7.5.2).

The Western Cape Local Government Organisation (WECLOGO) (1998 : 2) similarly argued that national legislation should allow for options in the establishing of different categories of local government in the various metropolitan areas of South Africa for the following reasons:

- diversity in local geographical areas;
- different population distribution patterns;
- differing financial capabilities; and
- different existing institutional systems.

In response to the **White Paper on Local Government (Final Draft)**, 1998, the Centre for Development and Enterprise (CDE) (1998 : 37-38) states that the provisions for metropolitan government imply serious risks in respect of:

- the alienation of minorities and the loss of co-operation between interest groups in meeting the challenges of the future. Measures to increase the viability and capacity to attract serious participation at a decentralised tier of local government are essential;
- the protection of the rights of ratepayers and citizens with regard to the quality and maintenance of services which their rates and levies are intended to finance;
- the efficiency of local administration under conditions of increasing size and complexity associated with the centralisation of functions; and
- ensuring an operating environment of sufficient stability and quality to attract investment.

Zybrands (1998 : 197) states that with the establishment of the Greater Johannesburg Metropolitan Council all powers were effectively placed with the metropolitan council and its local substructures stripped of any power, which led to frustration and for a lengthy period local communities found that their councils had become emasculated. The main problem with a “strong” metropolitan



system is that it takes the "local" out of local government. It distances government from its constituents and the enforcement of accountability becomes increasingly difficult. This situation deteriorates if a large number of metropolitan councilors are indirectly elected by their fellow councilors in the local substructures or are elected from a nominated proportional party list.

Single-tier metropolitan governments as stipulated in the **Local Government: Municipal Structures Act**, 1998, are the exception rather than the norm. Political opposition, particularly from abutting municipalities due to the loss of local autonomy, freedom, power and authority, is one of the reasons why the single-tier option is rarely considered throughout most of the world. Other disadvantages are that it creates a unit of government that is too big to be local, meaning that the needs and interests of localities within the metropolis are not well served and functions that require proximity to citizens and which benefit from small scale operations are not performed effectively. It also leads to problems of remoteness and the lack of accountability, particularly when not directly elected (Cameron, 1999 : 21-22). Reddy (1998 : 22) writes that in March 1997 when a referendum was held on the establishment of a megacity, seventy six percent of the residents of Toronto voted against the proposal, which was nevertheless implemented on 1 January 1998.

The rationale for a two-tier structure is that different functions and services require different catchment areas, that is, flexibility. The efficiency/spill-over advantages of metropolitan authorities are required for some functions while others are delivered more efficiently on a smaller scale by the lower tier authorities and are best suited to be delivered closer to the communities they represent. The two-tier structure also captures the benefits of consolidating local governments without incurring its disadvantages. The creation of lower-tier units is seen as a way of keeping government closer to the people (Cameron, 1999 : 20). In other words, a two-tier structure complies with the objectives and values of decentralisation, such as, responsiveness, direct accountability and efficiency of administration in respect of the channels of administration, accessibility and communication.



Furthermore, in metropolitan re-organisations, that is, the amalgamation of local authorities, economy and efficiency results have been disappointing, that is, savings were small and economies of scale were not realised. On the issue of fragmented service provision and local authority efficiency, the evidence is that these problems are not necessarily solved by amalgamation of local governments. There is also no proof that amalgamation will promote greater local autonomy or democracy. Amalgamation has, however, in some instances reduced the operation of democracy as a result of the greater distance of the local authority from residents and as a result of the administration becoming more bureaucratic and extended (Watson, 1988 : 178). Thus, a single-tier local structure can be contrary to the objectives and values of decentralisation in the case of metropolitan areas.

In concurring, Staley (1992 : 16) adds that the costs with the public sector increase when consolidated local government structures are implemented, the reasons being that when bureaucrats and politicians are removed from close, day-to-day contact with citizens, the incentive to spend increases and the incentive to reduce costs decreases. Thus, at the heart of the debate over metropolitan government and efficiency is the controversy over political accountability. The further elected representatives are from voters, the less likely they are to be held accountable through the political process. In the end, elected representatives and bureaucrats charged with carrying out policies pursue personal rather than public interests. The solution is, therefore, more likely to be found in a competitive decentralised local government structure.

In the light of the disadvantages of single-tier local authorities and the limited utility of loose confederations, two-tier metropolitan government is a welcome alternative. The popularity of two-tier local government structures assuredly reflects their suitability to the conditions in many large metropolitan areas throughout most of the world due to their inherent flexibility and are, thus, the best option for future metropolitan re-organisation (Jones & O'Donnell, 1980 : 549). Examples of two-tier local structures in metropolitan areas in the countries studied are *inter alia* Dade County and Los Angeles in the United States of America, the Greater London Council and the six metropolitan county



councils in England, which were abolished for political reasons and the “two-tier” structures in the various metropolitan areas of South Africa, that is, as at 1999.

However, the generally accepted advantage of a single-tier metropolitan structure is that it facilitates redistribution by creating a uniform valuation base and levying a common property tax rate. In other words, it creates a basis for an equitable distribution of wealth, which arguably is one of the fundamental reasons why the present Government imposed a single-tier structure (mega-city) in metropolitan areas without option. Nevertheless, the extent to which this function will be performed in a socially and economically “developmental” fashion, will depend on the nature of representation on the metropolitan authority or council. This function is, however, being partially fulfilled by the upper tier of local government, namely, the metropolitan councils and can be supplemented by way of imposing an additional percentage on the existing payroll and turnover levies or by introducing a separate tax on the lower tier local authorities.

In concluding, a directly elected general-purpose two-tier local government structure is proposed for the metropolitan areas of South Africa. The primary or second tier local authorities in metropolitan areas should form a strong tier of government, due to *inter alia* its close proximity to the community and financial capacity and resources and which entails the devolution of powers to adopt legislation, strong influence at the upper tier of local government in terms of the political decision- and policy-making processes in respect of their charters, powers and functions, adequate own financial resources through taxation and autonomy to take decisions in allocating funds for their various functions and projects after following a public participation process, important metropolitan or local entity and strong identity in terms of metropolitan or local functions and accountability for service delivery. Therefore, the degree or form of decentralisation in terms of authority and power would be either devolution or delegation (Chapter 2 : subsections 2.2.1, 2.2.3, 2.2.4, 2.4.2.2, 2.4.3.4, 2.4.3.5, 2.5.1, 2.5.2 and 2.5.3.3).



The proposed directly elected metropolitan councils (upper tier) should primarily be responsible for issues of metropolitan significance such as:

- the establishment of a basis for equitable and social just governance in respect of aid and the redistribution of funds for the development of the poor areas within the metropolitan areas;
- the promotion of an integrated and systematic strategic land use planning and control as well as a co-ordinated public investment, physical and social infrastructure to *inter alia* forestall urban sprawl as has occurred in the metropolitan areas in the United States of America; and
- the development of an integrated metropolitan wide framework for economic and social development which must enhance the economic competitiveness and well-being of the designated metropolitan areas.

On the other hand, the directly elected general-purpose urban municipal councils (second tier), which are closer to and can identify with their communities, particularly in respect of the poorer communities who generally lack the means to commute long distances, should perform most of the local functions for which they would be directly accountable and responsive to their electorates as well as have the powers to raise and control their own financial resources. The second tier authorities must be large enough to effectively undertake a wide variety of functions and should be of similar size to ensure comparable financial capacities and resources (Chapter 2 : subsections 2.2.1.4, 2.4.3.5 and 2.5.1.1; Chapter 5 : subsection 5.4.2.5; Chapter 7 : subsection 7.4.3; Chapter 8 : section 8.3 and Chapter 9 : section 9.3).

Turning to the degree or form of decentralisation of powers and functions to the metropolitan councils (upper tier) and urban councils (lower tier), will primarily either be in the form of devolution or delegation, details of which will be addressed in section 10.5.

Finally, it is also proposed that representative special-purpose local authorities be established in metropolitan areas to undertake specific functions, details of which are also dealt with in section 10.5.

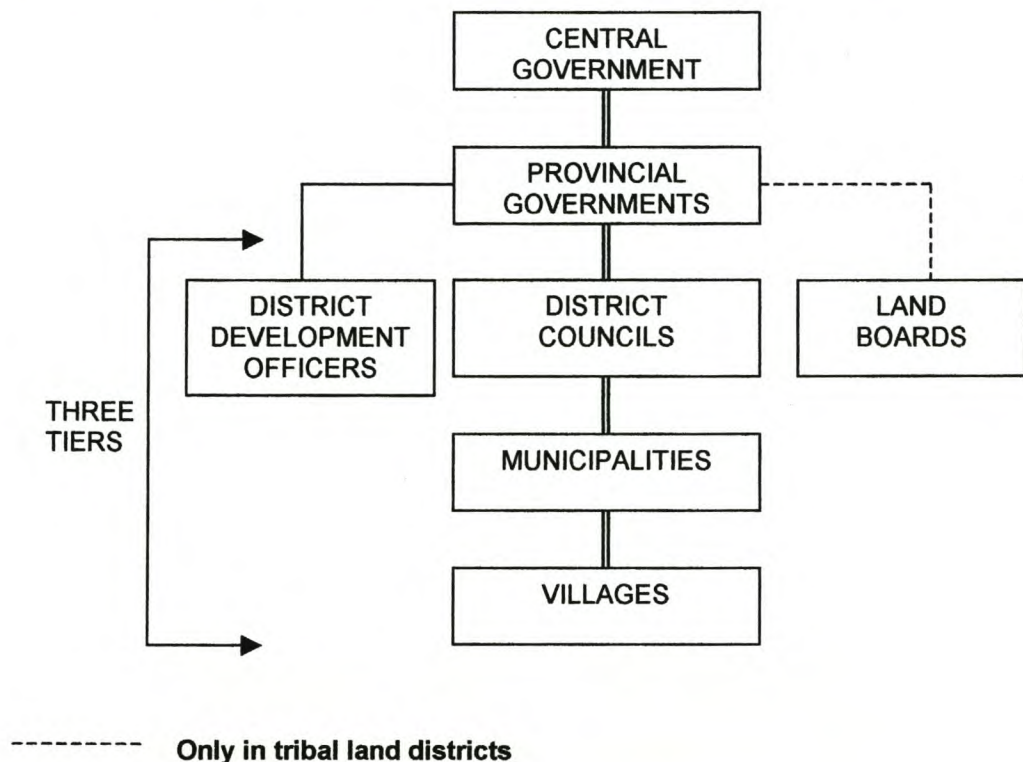


In the ensuing subsection the local political structure proposed for non-metropolitan (rural) areas in South Africa will be addressed.

#### 10.4.2 NON-METROPOLITAN AREAS

The proposed macro organisational structure of local government in the designated non-metropolitan areas in South Africa is reflected in Figure 10.3.

**Figure 10.3: Proposed Local Government Structure in Non-metropolitan Areas**



In many countries the number of local tiers in rural areas exceeds that in urban areas. This is particularly so where the degree of development between the different areas varies and also due to the tendency of the rural areas to be smaller in population than their urban counterparts and have fewer financial resources, political leadership and skilled administrators (Humes & Martin, 1969 : 64 and Gildenhuys *et al*, 1991 : 127).

It is proposed that the district councils or upper tier of local government in non-metropolitan areas in South Africa be established through home rule charters as is the case with most of the counties in the United States of America, whilst the



municipalities or rural towns and the villages should be created by their respective provincial government through general law charters, that is, the division of local authorities into various categories or classes according to the size of the population, geographical location or essential evaluation, which will determine the powers of these authorities or councils (Chapter 6 : subsections 6.4.1 and 6.4.2.1 and Chapter 9 : section 9.3).

In the designated non-metropolitan areas in South Africa, a three-tier structure of directly elected local governance is proposed comprising the existing districts, rural towns (municipalities) and villages whereby the upper tier will perform functions of district or regional significance, the second tier functions common to general-purpose local authorities in urban areas, with the aid of single-purpose local authorities where the need arises, and the third tier functions pertaining mainly to maintenance of facilities, that is, almost similar to the villages in the United States of America and parishes in England, details of which will be addressed later (Chapter 2 : subsections 2.4.2.2 and 2.5.3.3; Chapter 5 : subsections 5.4.1.4, 5.4.1.5 and 5.4.2.5; Chapter 6 : subsection 6.4.2.3; Chapter 7 : subsections 7.4.2.2.2, 7.4.2.3, 7.4.3 and 7.5.2 and Chapter 9 : section 9.3).

Due to the fact that general-purpose local authorities on the second tier deliver a wide range of diversified functions to their communities within one demarcated area or jurisdiction, a wide variety of skilled human as well as the concomitant financial resources are required, some of which functions municipalities in certain of the designated non-metropolitan areas will not be in a position to perform. In such instances, it is proposed that the provincial governments establish representative single-purpose local institutions as in the case of, for example, the school boards or districts in the United States of America. The proliferation of special-purpose local authorities is, however, not advocated for non-metropolitan areas for the same reasons given in the previous subsection. If this will be the result in certain non-metropolitan areas, it is proposed that the district councils (upper tier) take over or perform such identified functions (Chapter 6 : subsections 6.3.3 and 6.4.2.4; Chapter 7 : subsections 7.4.4 and 7.5.4 and Chapter 8 : section 8.5).



In the context of a federal model, that is, a strong sphere of local government, the local political structure proposed for non-metropolitan areas is almost similar to the three-tier structure in England which comprises counties, districts and parishes and which, despite various structural reforms to local government in Britain since the 1970's, still largely remains intact. It is also not dissimilar to the three-tier local structures adopted in the counties of Portland and Minneapolis in the United States of America.

The district councils should be concerned with issues of regional significance, such as, the promotion of commercial and industrial development, social and economic development, agricultural development, strategic planning, passenger transport co-ordination, the equitable distribution of resources and also provide and maintain appropriate levels of municipal services in the poor and remote areas, where local authorities have inadequate financial and human resources, for example, the proposed third tier comprising villages and the rural towns where the need arises (see section 10.5).

The proposed second tier comprising municipalities in the existing rural towns can be compared with the towns and townships in the United States of America which are chartered representative general-purpose local institutions encountered in rural areas with fairly sparse populations as well as the rural counties which existed on the second of a three-tier structure in the eastern region of Nigeria prior to and during the first period of democracy (Chapter 4 : subsection 4.4.1.1.1; Chapter 6 : subsection 6.4.2.3; Chapter 8 : section 8.3 and Chapter 9 : section 9.3).

The municipalities on the second tier of the proposed three-tier local structure for non-metropolitan areas should form a strong tier of local government due to *inter alia* their close proximity to the community, with devolved powers to adopt legislation, strong influence at the upper tier of local government in terms of their charters, powers and functions, adequate size and own financial resources through taxation and autonomy in allocating funds for their various functions and projects after following a public participation process, important district or local entity and strong identity in terms of district or local functions and



accountability for service delivery. Thus, the degree or form of decentralisation in terms of authority and power would either be devolution or delegation (Chapter 2 : subsections 2.2.1, 2.2.3, 2.2.4, 2.4.2.2, 2.5.1.1, 2.5.1.2, 2.5.2 and 2.5.3.3).

The proposed villages on the third tier can be compared to the local councils which existed in Eastern Nigeria during the First Republic and the villages in the United States of America which are *inter alia* established to further promote the objectives and values of decentralisation, such as, local nation building, democracy, public participation, policy diversity, responsiveness and accountability and countervailing power. It should be noted that one of the prime arguments for the multi-layered structure in Britain during the 1970's was that it would prevent the risk of rural interest from being disregarded by dominant urban authorities, which in this instance are the second tier municipalities.

Furthermore, in the rural areas of South Africa there are numerous "dorpies" or villages in which grassroots democracy must be maintained. In these remote areas village councils can promote their cause by forming pressure groups at the higher tier of local government, namely, town councils or municipalities. Due to their limited financial base and human resources, these institutions should provide services such as the maintenance of roads and sidewalks, street lights, sports fields, halls and libraries, as in the case of parishes in England and the villages in the United States of America (Chapter 2 : subsections 2.2.1 and 2.2.4; Chapter 4 : subsection 4.4.1.1.1; Chapter 5 : subsection 5.4.1.4; Chapter 6 : subsection 6.4.2.3; Chapter 8 : section 8.3 and Chapter 9 : section 9.3).

Finally, each of the three tiers proposed for local government in non-metropolitan areas should, as far as possible, possess legislative, executive and administrative powers and functions. If, for example, a village is unable to execute some of its powers and functions it should be fulfilled by the rural town in its proximity for which this second tier local authority should be compensated by the district council.



Turning to the designated non-metropolitan areas in, for example, the Eastern Cape and KwaZulu-Natal where there are vast tracts of tribal land, it is proposed that a quasi-representative land board per district be established, as in the case of Botswana, but through provincial legislation, for the purpose of allocating tribal land for commercial, residential, arable grazing and other purposes. The proposed land boards should also be responsible for the granting of hunting concessions and game reserves which will increase their revenue base. However, if due to financial and human resource constraints, land boards should be managed by the national government on a non-political basis (Chapter 3 : subsection 3.4.4 and Chapter 8 : section 8.3).

Should it be decided to establish local authorities in tribal areas through national legislation as provided for in terms of Section 212 of the **Constitution Act**, 1996, the chiefs must become members of the local government service and be subjected to the relevant conditions of service and code of conduct as is the practice in Botswana (Chapter 3 : subsection 3.4.1.6 and Chapter 8 : section 8.3).

It is also proposed that development committees should be formed in each district under the chairpersonship of a commissioner appointed by the provincial governments and comprising representatives of the local institutions in the non-metropolitan area or district to facilitate the co-ordination of, for example, development planning and to oversee the implementation thereof as well as to co-ordinate the activities of the provincial and local government agencies, similar to the practice in Botswana. Furthermore, the district development commissioner or officer can also be utilised to facilitate and oversee elections in the district. The thrust of these proposals is to implement a system of checks and balances in the districts, particularly in the light of the fact that rural or remote areas often do not have the required financial and skilled human resources (Chapter 3 : subsection 3.4.5 and Chapter 8 : section 8.3).

The degree of decentralisation in respect of the proposed land boards and district development commissioners or officers in terms of authority and power will primarily be deconcentrated.



Finally, turning to the degree or form of decentralisation of powers and functions to the district councils (upper tier) and municipalities (second tier), will primarily either be devolved or delegated and to the villages (third tier) mainly deconcentrated, details of which will be addressed in the ensuing subsection.

## **10.5 LOCAL FUNCTIONS**

In the three subsections to follow the classification and allocation of functions to local government, the proposed new functions for local government and the distribution of functions between the tiers of local government will be addressed.

### **10.5.1 CLASSIFICATION AND ALLOCATION OF FUNCTIONS TO LOCAL GOVERNMENT**

Local governments in South Africa must continue to exercise the following basic functions, namely:

- the provision of obligatory services as provided for in the Constitution, that is, the services function;
- the right or power to make local legislation or by-laws, that is, the legislative function; and
- the control of relevant legislation within their areas of jurisdiction to ensure that the requirements thereof are being met as well as the execution of public policy, that is, the control function (Chapter 2 : subsection 2.6.1).

Functions should be classified into the following broad categories between the spheres of government:

#### **□ *National Government***

- National functions performed centrally by ministries, for example, defence.
- National functions performed by decentralised units of the national government administration at the provincial and local spheres of government, that is, deconcentration.



- National functions performed at arm's length from the national government to agreed national standards, that is, delegation.

□ *Local Government*

- National functions transferred to the provincial and local governments over which the national government wishes to retain overall quality control while leaving some room for local discretion, that is, delegation. In the South African context examples of such delegated functions are civil protection, health, slum clearance and conservation.
- Local government functions managed entirely at the discretion of local government over which the national government does not wish to exert control, that is, devolution (Hollis & Plokker, 1995 : 106). Examples of such functions in South Africa are parks and recreation, roads, refuse removal and disposal, stormwater and street lighting (Chapter 2 : subsection 2.6.2).

Flowing from the foregoing, it is important to stress that in a democratic society such as South Africa, a clear distinction must be made in terms of executive control between the role of decentralised national government (delegation/deconcentration) and that of local self government (devolution).

Furthermore, there are three recognised methods or principles which can be applied in the allocation of functions to the local sphere of government, namely, by:

- compiling a list of all possible functions and detailing or specifying which level of government is responsible for what functions and by whom these functions will be controlled. This method of allocation is usually followed by countries with a unitary system of government, bearing in mind that the national government is empowered to take away functions from the lower level/s of government, that is, the sovereignty of Parliament;
- specifying which functions are the domain of national government and leaving the remainder to the other levels of government. This principle is generally followed by countries with a federal system of government;



- agreeing to certain basic principles as to how the functions will be performed between the various levels of government, specifying the functions for which each level of government will be responsible, permitting maximum freedom for the execution of these functions and ensuring adequate *a posteriori* control by the relevant level of government (Hollis & Plokker, 1995 : 103). This method is a combination of the two described above (Chapter 2 : subsection 2.6.2).

With regard to the assignment or allocation of functions, the Katz Commission (1999 : 2) stresses the importance of finance to follow function, which does not always happen in South Africa. The devolution or delegation of powers and functions go hand in hand with the fiscal means to perform those functions and exercise those powers. The Financial and Fiscal Commission will have to play a pivotal role with regard to the proper funding of the sphere of local government, details of which will be dealt with in subsection 10.6. This shows again the interrelationship of the criteria identified for this dissertation.

It is proposed that the process be followed whereby agreement is reached on a number of basic principles which regulate the power arrangements between the three spheres of government, by specifying in the Constitution of 1996 the functions for which each sphere is responsible and by permitting maximum autonomy or freedom in the execution thereof, bearing in mind *inter alia* the purpose and values of decentralisation. This method or principle of allocating functions to the spheres of government is a mixture to that commonly used in countries with federal and unitary systems of government, which method is *inter alia* proposed due to the fact that South Africa is an advanced developing country.

Finally, all possible functions should be allocated either by way of delegation or devolution to the relevant sphere of government and in the event of a tier of local government not being in a position to adequately execute a particular function, such service or function is transferred to the higher tier of local government or a special-purpose local institution should be established, that is, the functions allocated to a level or sphere of government should remain within



that level of government unless it is mutually decided otherwise between the spheres of government (Chapter 7 : subsection 7.4.3).

### **10.5.2 PROPOSED NEW FUNCTIONS FOR LOCAL GOVERNMENT**

The statutory functions of local authorities in the selected developing and developed countries as well as South Africa are depicted in Annexure I.

Turning to rural and urban local government in Botswana, the most important statutory function is primary education, which, according to Reilly & Tordoff (1993 : 158), has also been the most successful function. In this regard the construction of school facilities and related matters have been privatised. The provision of basic health is the second most important function which is, however, closely supervised by the Ministry of Health. A further statutory function of these councils is community development. The local authorities in urban areas are, in addition, required to provide housing and electricity. Low cost housing is in particular demand due to the rapid influx of people into the towns, as is the case in South Africa. The education and housing functions are performed by the provincial government on an agency basis for the national government in South Africa, whilst the health function, that is, clinics and environmental health is undertaken by the local government on an agency basis for the national government (Chapter 3 : subsections 3.4.2.3, 3.4.3.2 and 3.6.2; Chapter 7 : subsections 7.3.3, 7.4.3 and 7.5.3 and Chapter 8 : section 8.4).

The decentralised reforms implemented in Nigeria in 1976 *inter alia* made provision for a second list of functions that could be handled jointly by local and state governments or by the former as they acquired the capacity to discharge them. This list includes functions such as health centres, abattoirs, nursery, primary and adult education, libraries, veterinary clinics, water, fire, roads, public housing, building regulations, traffic and parking, sewerage and town and country planning (Chapter 4 : subsection 4.4.2.3.2 and Chapter 8 : section 8.4).

The foregoing principle is not generally supported in that the concurrent or joint provision of functions and services between the levels of government as well as



between the tiers of local government can lead to problems of co-ordination, public confusion and blurred accountability. It is, therefore, imperative that agreement is reached between the levels of government and the tiers of local government which defines a clear functional division of responsibility, as was done in the Cape Metropolitan Area between the Cape Metropolitan Council and the six Metropolitan Local Councils that recognises the most efficient allocation of functions (Chapter 7 : subsections 7.4.2.2.1, 7.4.3 and 7.5.3 and Chapter 8 : section 8.4).

It is noted that local governments in the selected developing and developed countries have been allocated the major functions of education and housing, that is, with the exception of South Africa where these functions have not been assigned to the local sphere of government. It is further noted that the function of policing, that is, apart from traffic control, has been devolved to the local governments in Britain and the United States of America. In Nigeria local authorities are required to carry out the registration of births, deaths and marriages. It is proposed that this function be decentralised (delegated) to the second tier of local government which is in close proximity to the communities (Chapter 3 : subsections 3.4.2.3, 3.4.3.2 and 3.6.3; Chapter 4 : subsections 4.4.2.3.2 and 4.5.3; Chapter 5 : subsections 5.4.1.5, 5.4.2.5 and 5.7.3; Chapter 6 : section 6.5 and subsection 6.7.3; Chapter 7 : subsections 7.3.3, 7.4.3 and 7.5.3; Chapter 8 : section 8.4 and Chapter 9 : section 9.4).

In the South African context it is also proposed that the functions of education and housing be delegated to a limited number of representative single or special-purpose local authorities in each province, for example, one per designated metropolitan and non-metropolitan area or district. These functions should be performed within the stipulations of the relevant Acts of Parliament and the guidelines and policies set by the national government. In the United States of America, for example, the education function is performed by representative special-purpose local authorities called school districts and the housing function by and large also by special-purpose local authorities.



Special-purpose authorities can be tailored to specific functional requirements rather than conforming to municipal boundaries. They have more operational flexibility than primary local authorities which, in the case of South Africa, are performed by the national government agencies and, are also to some degree removed from politics, which gives them more discretion to undertake politically difficult or sensitive functions, such as education and housing (Cameron, 1999 : 25). The education function in South Africa is already split into districts which could form the basis for the establishment of special-purpose local institutions in the rural and urban areas. The housing function should be performed at the local level, that is, close to the communities which are to be provided with homes due to *inter alia* the extensive consultation and participation processes which must be followed in respect of any affordable housing project, which process is already being undertaken by municipal officials and local political office bearers, that is, the so-called "social compact" groups.

Turning to municipal policing, which function comprises three components, namely, traffic control, law enforcement and crime prevention, the latter of which was decentralised to local government in South Africa during February 1999, it is proposed that this segment which basically entails community policing be devolved to the local level due to the fact that it should be managed and performed close to the community and which in turn can be privatised in which instance local authorities play an enabling or facilitating role by, for example, requesting the local business sector to contribute towards the cost of the service, collecting such contributions and making payments into a trust fund to be administered by a non-profit organisation registered in terms of Section 21 of the **Companies Act**, 1973 (Act 61 of 1973) as is the case in the Cape Metropolitan Area, bearing in mind the developmental role of municipalities in terms of the basic needs of the community (Chapter 7 : subsection 7.4.3 and Chapter 9 : section 9.4).

Further functions proposed to be devolved to local governments in metropolitan and non-metropolitan areas are:



- ambulance services;
- municipal policing (crime prevention);
- vehicle licensing;
- slum clearance;
- fire protection;
- health (clinics and environmental health);
- municipal libraries;
- local museums; and
- conservation, that is, local nature reserves, protected natural environments and natural heritage sites.

The main reason for proposing that the foregoing functions be formally devolved to local government is that they are presently being carried out on a delegated basis on behalf of the central and/or provincial governments, that is, on an agency basis without the commensurate grants or subsidies in most instances. Furthermore, these functions can be regarded as subsidiary which need to be performed as close as possible to the communities (Chapter 7 : subsections 7.3.3, 7.4.3 and 7.5.3; Chapter 8 : section 8.4 and Chapter 9 : section 9.4).

In terms of the provisions of the **Constitution Act**, 1996, community and economic development is already being undertaken to varying degrees by local government, which facet will be further entrenched by the to be promulgated **Local Government: Municipal Systems Act** in 2000. Agricultural development in rural areas is seen as a natural extension to community development and, as such, has been included as a function of district councils to be co-ordinated and facilitated by the district development officers through the vehicle of district development committees (Chapter 7 : subsection 7.4.3 and Chapter 8 : section 8.4).

Finally, it is imperative that in respect of the current (2000) delegated functions, such as, disaster management and health, the national and/or provincial governments provide the necessary funds, that is, full compensation, by way of categorical or specific grants in order for these functions to be effectively



performed by local government, that is, matching finance to functions (Chapter 2 : subsections 2.7.1.2.2 and 2.7.2.1).

Turning to the functions or services which have been privatised in the countries selected for this dissertation, that is, primarily in Britain and the United States of America, are depicted in Table 10.2 as is the proposed form of privatisation in the context of South Africa (Chapter 2 : subsection 2.2.3.4; Chapter 5 : subsections 5.5.2, 5.6.2 and 5.7.3; Chapter 6 : section 6.5 and subsection 6.7.3; Chapter 7 : subsection 7.5.3; Chapter 8 : section 8.4 and Chapter 9 : section 9.4).

**Table 10.2: Proposed Privatisation of Local Functions**

Functions	Proposed Form
Refuse collection and disposal	Privatise
Public transport	Privatise
Street lighting and traffic signals	Privatise
Cleansing services	Privatise
Vehicle maintenance	Contract out
Street repairs	Privatise
Sale of housing stock	Privatise
Maintenance of buildings	Contract out
Environmental health	Contract out
Security services	Contract out
Legal services	Contract out
Recruitment and training	Contract out

In addition to the functions depicted in Table 10.2 it is proposed that the maintenance of cemeteries, public places, sports facilities and the management of child care facilities be contracted out by local authorities in South Africa and that public-private partnerships be entered into in respect of the management of pounds, which is to be coupled with a veterinary service, amenities, beaches and resorts.

It is proposed that the functions or services, where indicated, be privatised by way of contracting out after following a competitive tendering process, which will enable the municipality to retain control through a contract and to set standards and prices and, as such, remain accountable for these functions. A further reason why a municipality must follow a competitive tendering procedure



whenever it decides to privatise a function and which should be enforced by national legislation is to *inter alia* curb corruption and nepotism.

The proposed privatisation of the functions should be viewed as reducing and combating excessive local government expenditure, which does not have the same positive effect on economic growth as does spending by the private sector. Furthermore, it should be seen in the developmental context or role which local government is required to fulfil, that is, *inter alia* the promotion of social and economic development, as well as in terms of efficiency of administration (Chapter 2 : subsections 2.2.1.4 and 2.2.1.5; Chapter 5 : subsection 5.6.2 and Chapter 8 : section 8.4).

There should be no reason why all of the foregoing functions or services cannot be privatised by local authorities in South Africa, where appropriate, if the unions are consulted from the outset pertaining to any such initiatives.

The introduction of compulsory competitive tendering through legislation in respect of which functions or services must be privatised, as was the case in Britain, is not supported due to the fact that such a measure is not conducive to the promotion of certain of the objectives and values of decentralisation, such as, local freedom, policy diversity and countervailing power and due to varying circumstances from one locality to the other. Privatisation initiatives either through contracting out by way of a compulsory competitive tendering process or by entering into public-private partnerships should, therefore, be left to the discretion of individual municipalities in respect of the functions to be privatised and supported by the Government of the day, where appropriate (Chapter 5 : subsections 5.5.2.4, 5.6.2.3, 5.6.2.4 and 5.7.3; Chapter 7 : subsection 7.4.4; Chapter 8 : section 8.4 and Chapter 9 : section 9.4).

### **10.5.3 DISTRIBUTION OF FUNCTIONS BETWEEN THE TIERS OF LOCAL GOVERNMENT**

The functions allocated to the metropolitan authority vary from country to country, due to the different governmental structures. However, bearing in mind



the objectives of a metropolitan authority, that is, equitable distribution of finances, economies of scale as well as the redistributive and the service burden on the core cities, the following functions are derived at from research undertaken (Sharpe, 1995 : 19):

- master planning;
- arterial highways;
- traffic management;
- public transport;
- general utilities;
- recreation areas;
- trunk sewers and main drainage;
- refuse disposal;
- water supply;
- police;
- major cultural institutions;
- fire; and
- environmental protection.

Therefore, metropolitan governments in various countries throughout most of the world generally undertake the foregoing functions or combinations thereof depending on the political ideologies or structures prevalent in the individual countries. However, it can be stated that the supply of electricity and water should not be taken away from primary local authorities in South Africa as it comprises over fifty percent of their revenue (Department of Constitutional Development, 1998 : 10). Furthermore, in the South African context a major function for metropolitan and district councils is community and economic development (Chapter 7 : subsections 7.4.1.4, 7.4.2.3, 7.4.3 and 7.4.4).

Turning to the distribution of functions between the proposed tiers of local government, the principle of economy of scale and area significance should *inter alia* be applied, that is, with regard to the functions to be allocated to the metropolitan and district councils. There should also be a written agreement between the tiers of local government in metropolitan and non-metropolitan



areas, which clearly defines the functional division of responsibilities between the tiers and which could vary due to the capacity and size (area) of local government both in terms of financial and human resources. In terms of Section 24 of the **Local Government: Municipal Demarcation Act**, 1998, the Demarcation Board is responsible for determining municipal boundaries with the view to *inter alia* enable municipalities to fulfil their statutory obligations and ensuring an adequate tax base (population) to effectively execute their functions. This process is presently (1999) in progress (Chapter 2 : subsections 2.2.1.4, 2.5.1.1, 2.5.1.2, 2.6.2 and 2.7.2.1 and Chapter 7 : subsections 7.4.2.2.1, 7.4.2.3 and 7.4.3).

Flowing from the foregoing, as well as having taken cognisance of the following aspects, namely:

- the objectives, forms and values of decentralisation;
- the statutory functions allocated to local governments in the selected developed and developing countries depicted in Annexure I, as well as the positive lessons or experiences gained therefrom;
- the fact that South Africa is an advanced developing nation;
- the system of government prevalent in South Africa, including intergovernmental relations;
- types of local government;
- proposed tiers of local government;
- differences between rural and urban areas in terms of *inter alia* demographic, geographic, socio-economic, financial and skilled human resources;
- the basic principles for the allocation of functions; and
- the assistance provided by the higher levels of government to local government in the execution of their functions,

the proposed distribution of functions between the tiers of local government in South Africa are depicted in Annexure J.



Finally, the functions proposed for metropolitan and district councils are similar as are the functions of the municipalities in urban and rural areas, that is, with the exception of agricultural and rural/remote area development. However, for the reasons stated previously some of the functions proposed for the municipalities in non-metropolitan areas may have to be executed either by the district councils or by special-purpose local institutions, which scenario will vary from district to district. Due to their limited scope in terms of resources the functions of the localities or villages are primarily the maintenance of facilities, such as, cemeteries, parks, playgrounds, sports fields, sidewalks, libraries and street lighting. The proposed third tier will promote the objectives and values of decentralisation in rural or remote areas, such as democracy, accountability, policy diversity, participation and countervailing power by *inter alia* preventing rural interest from being disregarded by the higher tier local authorities (Chapter 5 : subsection 5.4.1.5; Chapter 6 : subsection 6.4.2.3 and Chapter 9 : section 9.4).

The following subsection will deal with proposals pertaining to the finance of local government in South Africa.

## **10.6 LOCAL FINANCE**

Despite certain disparities in the context of South Africa, the local authorities in the other countries utilised for this dissertation are generally under resourced and rely to varying degrees on grants from the higher levels of government, that is, central and/or state governments. This can be partially attributed to the fact that the local authorities in South Africa derive in excess of fifty percent of their budgets from the supply of electricity and water.

The local governments in the two selected developing countries, namely, Botswana and Nigeria rely heavily on grants to enable them to carry out the main statutory functions. Grants or subsidies from central or the provincial governments in South Africa form an insignificant portion of local government funding and are confined to a few services which have been delegated, for example, ambulance, health, libraries and fire brigade. However, with the transformation of the local political structures, the prevailing culture of non-



payment for services rendered and local government taking on the developmental role, the financial position of many of the local authorities has deteriorated appreciably and some are even bankrupt, particularly in the non-metropolitan areas (Chapter 3 : subsections 3.4.2.4, 3.4.3.3 and 3.6.4; Chapter 4 : subsections 4.4.1.5, 4.4.2.1.3, 4.4.2.3.3, 4.4.4.3 and 4.5.4; Chapter 7 : subsections 7.3.4, 7.4.4 and 7.5.4; Chapter 8 : section 8.5 and Chapter 9 : section 9.5).

Turning to the types of grants or subsidies, it is proposed that the problematic or struggling local authorities in South Africa be given categorical or specific grants from the relevant higher sphere of government in aid of a particular function or segment thereof, thereby restricting their discretion or latitude in respect of the purpose for which such funds may be utilised. On the other hand, the local authorities which are functioning effectively and efficiently should receive a greater proportion of their subsidies by way of either block or general grants which will in turn give them greater autonomy or freedom in deciding for which purpose to utilise the funds (Chapter 2 : subsection 2.7.1.2.2; Chapter 5 : subsection 5.5.3.1.1; Chapter 6 : subsection 6.6.2 and Chapter 9 : section 9.5).

In essence there are three key principles which underpin the financing of local government in a democratic environment, namely:

- appropriate funds to accompany devolved or delegated functions;
- individual or private user benefit; and
- integrity of financial behaviour (Chapter 2 : subsection 2.7.2).

The political structure, extent of functions and the availability of funds invariably changes as a result of demographic, economic, political and social developments. Many decentralised reforms have been aimed at adjusting and reassessing the balance between national and local functions and finances. Therefore, in a democratic society like South Africa once the matching of finance to functions has been agreed upon by the relevant stakeholders, it is essential to adhere to the principle of local government finance, which has often not been the case (Chapter 2 : subsections 2.4.3 and 2.7.2.1 and Chapter 7 : subsections 7.3.3 and 7.5.4).



The challenge, therefore, is to recognise the interrelationships between the aforesaid components and to ensure that changes are considered within the coherent framework encompassing the spheres of government. There should be absolute clarity with regard to the structural and functional division between the spheres of government and the accompanying financial and fiscal provisions by means of intergovernmental transfers, that is, matching finance to functions (Chapter 2 : subsection 2.7.2.1).

The main sources of revenue in the countries selected for this study are reflected on Table 10.3.

**Table 10.3: Main Sources of Revenue**

<b>COUNTRY</b>	<b>MAIN SOURCES OF REVENUE</b>			
	<b>LOCALLY RAISED</b>	<b>ASSIGNED</b>	<b>LOANS</b>	<b>MISCELLANEOUS</b>
Botswana	Rates Rents School fees Licence fees Abattoir fees African beer sales	Deficit grants	Capital projects	Royalties Donations Interest on investments
Nigeria	Property rates Pay as you earn Poll tax Cattle tax Various fees and fines	General and special grants	Capital projects	Rents on real estate Royalties Interest on investments
Britain	Council tax Business rate Various fees and charges	Block and specific grants	Capital projects	Housing rents Social services Trading activities
United States of America	Property taxes Charges and fees Business taxes Local sales tax Local income tax	Block and categorical grants	Capital projects	Utilities
South Africa	Property rates Service charges Trading enterprises Various fees and fines	Subsidies	Capital projects	RSC Levies (Payroll and turnover taxes)

Reverting to the financial status of local government in South Africa, the formula-based system of intergovernmental transfers which is in the process of being phased in should alleviate the plight of the poorer municipalities whilst constraining the wealthier local areas. Furthermore, the Demarcation Board which is in the process of restructuring the existing municipal boundaries should take serious note of the struggling or unviable local areas and liaise closely with the Departments of Constitutional Development and Finance in this regard prior to submitting its final proposals for new municipal boundaries, whilst bearing in



mind the objectives and values of decentralisation, such as, democracy, freedom, policy diversity, responsiveness and accountability and political participation. Factors which the Demarcation Board should bear in mind, particularly in respect of the rural areas, are *inter alia* geographic size, population densities and the adequacy of financial and human resources of municipalities to effectively exercise their power and perform their functions (Chapter 2 : subsections 2.2.1, 2.2.4, 2.4.3.3 to 2.4.3.5, 2.5.1.1 and 2.5.1.2 and Chapter 7 : subsections 7.4.4 and 7.5.4).

In the ensuing three subsections of this chapter, the proposed new sources of finance for local government, the principles of financing local government and the proposed system of local government finance will be addressed.

#### **10.6.1 PROPOSED NEW SOURCES OF FINANCE FOR LOCAL GOVERNMENT**

There are large differences in South Africa between the fiscal capacities of metropolitan and non-metropolitan municipalities. Furthermore, within the present non-metropolitan areas there are differences between the fiscal capacity of secondary-tier and primary-tier municipalities, that is, the transitional representative and transitional rural councils as well as amongst the municipalities, that is, transitional local councils (Katz Commission, 1999 : 5).

Thus, the foregoing again proves the interrelationship which exists between the criteria identified for the study and the relevance or importance for adopting an integrated approach.

In order to alleviate the financial problems which are particularly acute in certain non-metropolitan areas or districts, it is proposed that the district councils (upper tier) should be empowered to levy a rural land tax for the specific purpose of providing additional infrastructure and undertaking agricultural and community development projects in the rural and remote areas within the districts, that is, the proposed villages on the third tier (Chapter 7 : subsections 7.4.4 and 7.5.4 and Chapter 8 : section 8.5).



The proposed rural land tax should include privately owned land, state land, tribal land as well as land held under other forms of tenure. National legislation should be passed to ensure the orderly introduction of the tax and to ensure that it fits into the national fiscal policy, including the intergovernmental fiscal framework.

Furthermore, national legislation should *inter alia* make provision for the types of tax relief measures that are allowable and the conditions under which such measures may be implemented, for example, in the event of a drought in a district/s.

In South Africa there are large numbers of persons enjoying land use, for example, in the communal land areas, who are not required to be included in the tax system and should be accommodated by a form of a *de minimis* exemption. It is, therefore, proposed that poor people who cannot afford such a cash outlay or who have no means of recovering the rural land tax through the income tax system, be exempted from paying the rural land tax.

The implementation of a rural land tax has also been mooted by the Katz Commission (1999 : 3-10), which was appointed by the Government to investigate the capacity of rural municipalities in South Africa.

It is nevertheless apparent that further additional sources of revenue need to be devolved to the local sphere of government in order to sustain a drastically reformed system of local government in South Africa.

Turning to the proposed two-tier structure for local government in metropolitan areas, the fact that the metropolitan councils (upper tier) cannot impose property taxes and due to these councils being required to undertake major developmental projects with, in real terms, decreasing intergovernmental grants or transfers, it is proposed that the municipalities (second tier) in urban areas transfer their income derived from commercial and industrial property taxes to the metropolitan councils, which generally amounts to approximately twenty percent of the property tax component, to be added to the revenue from



turnover and payroll levies and used *inter alia* for the purpose of carrying out their developmental role in terms of the **Constitution Act**, 1996, that is, giving priority to the basic needs of, and promoting social and economic development of the community. Thus, the municipalities will still have delivery responsibility for local functions and the right to set the rates of and retain the revenue from residential property taxes (Chapter 7 : subsections 7.3.4 and 7.4.4).

The foregoing is not proposed in non-metropolitan areas due to the proposed implementation of the rural land tax which will accrue to the district councils and the fact that municipalities in certain districts are struggling to cope financially.

In terms of Subsection 229(1) of the **Constitution Act**, 1996 a municipality in South Africa may not impose income tax, value added tax, general sales tax or customs duty, which is typical of a centralised model of local government finance. It is interesting to note that local governments in Britain, Nigeria and the United States of America may *inter alia* impose personal tax, local income tax and local sales tax. In addition local authorities in Botswana derive revenue from African beer sales. It is also interesting to note that the Government of Botswana is investigating the introduction at the local level of fuel tax, utilities tax, sales tax, the re-introduction of local government or income tax, property tax in rural areas and a head tax on cattle, the latter of which is being imposed in Nigeria (Chapter 2 : subsection 2.7.3.1; Chapter 3 : subsection 3.4.2.4; Chapter 4 : subsections 4.4.1.3.3, 4.4.2.3.3 and 4.4.4.3; Chapter 5 : subsection 5.6.3; Chapter 6 : subsections 6.6.1.2 and 6.6.1.3; Chapter 8 : section 8.5 and Chapter 9 : section 9.5).

Reverting to the imposition of further local taxes in the South African context due to *inter alia* the foregoing proposal for metropolitan areas pertaining to the transfer of the commercial and industrial component of the property tax to the metropolitan councils and the poor financial position of municipalities in certain districts, it is proposed that the payroll and turnover levies which accrue to the metropolitan and district councils be increased by a quarter percent which, in turn, these upper tier local authorities must distribute to the municipalities and



villages in their areas of jurisdiction according to the revenues accrued or collected from such areas, that is, in respect of the additional quarter percent.

The foregoing proposal is also made due to the fact that the imposition of a local income tax and a local sales tax by these proposed second tier local authorities will be in conflict with the present payroll and turnover levies and place an undue burden on the taxpayers in these areas. Furthermore, in the selected countries which impose the former taxes, payroll and turnover levies are not in existence.

The imposition of a local fuel tax has been mooted on a number of occasions in South Africa. At present (1999) municipalities are spending less and less money on the maintenance of roads, which is a functional responsibility of the local sphere of government in terms of Part B of Schedule 5 of the **Constitution Act**, 1996, due to other more pressing priorities, such as the upliftment of the previously disadvantaged communities which have been incorporated into their areas of jurisdiction.

In this regard, it is proposed that the bulk suppliers of petroleum be required by national legislation to distribute one cent per litre of fuel supplied within the area of jurisdiction of a municipality or village direct to these second and third tier local authorities. The implementation of this system should not be complicated as the few bulk suppliers in existence in South Africa have a record of the distribution of fuel in the various areas, whether it be to farmers, private and public organisations or to their retail outlets. A record of the payments made to local authorities should be submitted to the Department of Finance for audit purposes.

A further tax proposed for municipalities in metropolitan and non-metropolitan areas as well as villages, that is, the proposed third-tier local institution in the districts, is the sale of African beer from municipal facilities. When, for example, municipal halls are hired or used at which African beer will be sold, these local institutions should impose an additional tariff for the hiring of such facility. The



revenue derived from this source will, however, be minimal (Chapter 3 : subsection 3.4.2.4).

Finally, it is proposed that, due to their capacity or resources and as it is deemed to be best administered area-wide, district councils be empowered by national legislation to levy a tax on livestock in their areas of jurisdiction. The amount of tax to be levied per head per annum should *inter alia* be determined by placing the animals into various categories, for example, cattle, goats and sheep. The tax rate per head will also have to vary from province to province due to differing climatic and geographic conditions prevailing in South Africa (Chapter 4 : subsections 4.4.1.3.3 and 4.4.4.3).

The foregoing proposal is made on the premise that there are no livestock farmers in the to be determined metropolitan areas.

Turning to the culture of non-payment of basic municipal services, it is proposed that the jurisdiction of the small claims court be extended to include the handling of claims by local authorities for payment in respect of services delivered, which will *inter alia* entail an amendment to Section 7 of the **Small Claims Courts Act**, 1984 (Act 61 of 1984), as amended, pertaining to the parties who may appear in court, that is, to make provision for corporate bodies, such as municipalities to appear before the small claims court (Chapter 7 : subsections 7.4.4 and 7.5.4; Chapter 8 : section 8.5 and Chapter 9 : section 9.5).

The foregoing proposal should facilitate the process of payment of outstanding accounts in that municipal debtors will be compelled to make arrangements for the payment of services delivered as well as reduce the legal costs or fees in respect of both parties.

## 10.6.2 PRINCIPLES OF FINANCING LOCAL GOVERNMENT

With regard to the principles of financing local government, it is proposed that in the South African context the principle of matching finance to delegated functions be strictly adhered to by the higher spheres of government, which has not always been the practice in the past. As stated in section 10.5, once



agreement has been reached as to which sphere of government performs what functions, it is essential to adhere to this principle of finance (Chapter 2 : subsection 2.7.2.1).

Furthermore, with the transformation of local government and changes as a result of economic, social and demographic developments, any proposed decentralised reforms will have to take into account the balance between national and local functions and finance as well as the close interrelationship between structure, functions and finance (Chapter 2 : subsections 2.2.1.4, 2.2.1.5, 2.5.1.1 and 2.5.1.2).

Flowing from the foregoing, it is proposed that municipal finance be dealt with in a holistic manner for which purpose an integrated plan should be framed which encompasses the following broad criteria, which adhere to the objectives and values of decentralisation, namely:

- overall national government control over public expenditure;
- a fair and objective distribution of burdens and benefits;
- establishment of a buoyant tax base with maximum breadth;
- stability to promote social and economic development;
- flexibility of financial systems;
- responsiveness and accountability for service delivery;
- protection from short term political intervention; and
- reasonable costs of collection and administration.

In addition, the beneficial principle should be strictly applied in respect of all trading or utility services, which for many local authorities in South Africa has been, and still is, their saving grace. This principle entails the contribution by the public to the economic cost of the provision of a service, which cost per unit can be measured, in accordance with their individual consumption. In this regard special effort should be made to ascertain what structures or processes can be put in place to reduce or keep to an acceptable level the operating cost of financial systems (Chapter 2 : subsection 2.7.2.2).

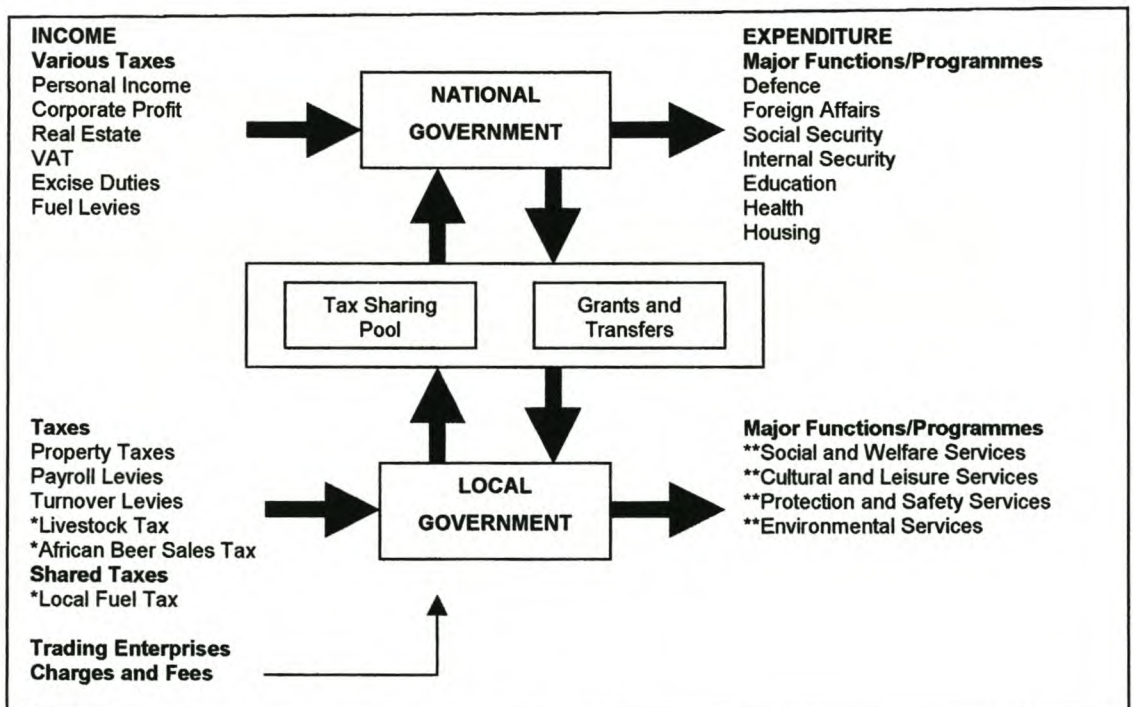


### 10.6.3 PROPOSED SYSTEM OF FINANCE FOR LOCAL GOVERNMENT

In the developmental context of South Africa and bearing in mind the objectives and values of decentralisation, a hybrid or mixed system of local government finance is proposed whereby some taxes are retained by each sphere of government, and there is a tax sharing pool from which intergovernmental grants, for example, the formula based equitable share transfers, are distributed between the levels or spheres of government for general and specific purposes which are to be carried out in terms of the provisions of the Constitution of 1996 and to which grants municipalities have a right in accordance with predetermined formulae should they not be in a position to effectively perform a statutory function (Chapter 2 : subsections 2.2.1, 2.2.4 and 2.7.3.3; Chapter 7 : subsections 7.4.1.4 and 7.4.2.3 and Chapter 8 : section 8.2).

The proposed system of finance for local government in South Africa is depicted in Figure 10.4.

**Figure 10.4: Proposed System of Local Government Finance**



\*Proposed New Taxes

\*\*Proposed Local Functional Grouping

To conclude, the following amendments to the system of local government finance in South Africa are proposed:



- that district councils in non-metropolitan areas be empowered to collect property taxes, that is, a rural land tax;
- that the municipalities in metropolitan areas transfer commercial and industrial property taxes collected in their respective areas to the metropolitan councils;
- that the rate in respect of payroll and turnover levies be increased by a quarter percent, which the metropolitan and district councils must distribute to the municipalities and villages according to the amounts collected in their respective areas of jurisdiction;
- that the bulk suppliers distribute one cent per litre of fuel supplied in the areas of jurisdiction of municipalities or villages direct to these local institutions;
- that the municipalities in metropolitan and non-metropolitan areas as well as the villages in the latter areas be empowered to impose a tax on African beer sales;
- that the district councils be empowered to impose a head tax on livestock in their areas of jurisdiction;
- that the jurisdiction of the small claims court be extended to include the handling of claims by local authorities for payment of services delivered;
- that an integrated plan be framed for the management of public finance;
- that the principle of finance follows delegated or devolved function be strictly applied by national and/or provincial governments as well as the beneficial principle in respect of all local trading services; and
- that the present centralised system of local government finance be replaced by the mixed model as depicted in Figure 10.4.

## **10.7 SUMMARY**

South Africa being a hybrid between a developed and a developing country, the proposals made pertaining to the political system, local political structure, functions and finance contain features more common to a federal system of government based on the objectives and values of decentralisation.



Turning to the political system, the proposed separation of the centralised executive authority in South Africa is in line with the fundamentals of a multi-party democracy and decentralisation of authority and power by making the Head of State directly accountable and responsible for the actions of Parliament and by giving the executive and legislative branches lateral freedom to operate independently of each other, which in turn should promote the culture of checks and balances at the local sphere of government.

Similarly, the provisions in the Constitution of 1996 which give the higher levels of government the right to take over obligations from the lower level are not conducive to promoting the values of decentralisation and democratisation of power and hence it is proposed that the provincial and local spheres of government be guaranteed the right to intergovernmental grants if they are unable to effectively perform a delegated or devolved statutory obligation. In the event of, for example, municipalities in a district not being in a financial position to perform a function, such identified function should be either transferred to the upper tier local authority or a representative special-purpose local institution. In other words, the function should remain in the particular sphere of government unless it is mutually decided otherwise between the spheres of government.

In addition, the provisions of the said Constitution stipulate that national legislation must define the different types of municipality that may be established within the various categories as well as the systems to assist local government to achieve its constitutional mandate, which is also not conducive to the promotion of the objectives of decentralisation. It is, therefore, proposed that the applicable provisions of the Constitution of 1996 be amended to empower the provincial sphere of government, which is in closer contact with local government in their areas, to determine the structures and systems of local government in their respective areas of jurisdiction.

Likewise, it is proposed that provision be made in the Constitution which will empower the provincial sphere of government to incorporate local authorities by way of charters which in turn will enhance the rights and legal status of local



authorities as well as the values and objectives of decentralisation, coupled to which it is also proposed that the names of the to be established municipalities be listed in a schedule to the Constitution of 1996.

With regard to the local political structures, the proposed two- and three-tier structures in respectively the metropolitan and non-metropolitan areas in South Africa complies with, and enhances the norms of decentralisation and fundamentals of local government in a multi-party democracy, whereas, the restrictive provisions of the **Local Government: Municipal Structures Act, 1998** and, in particular with regard to the implementation of a single-tier structure of local governance in the metropolitan areas, are not conducive to the promotion of the values of decentralisation and which advantages or benefits are questionable.

The proliferation of single-purpose local authorities such as in the case of the United States of America is not supported. However, the establishment of limited representative single-purpose authorities per province to carry out certain delegated functions is supported, for example, education and housing.

The establishment of land boards in applicable districts for the purpose of allocating tribal land and the appointment of district development commissioners/officers to co-ordinate and facilitate development projects in districts, is proposed.

The proposed principle for the allocation of functions which is based on mutual agreement between the levels of government and *a posteriori* control is a blend between that applied in countries with unitary and federal systems of government, coupled to which should be the objectives and values of decentralisation, which should either be by way of delegation or, funds permitting, by devolution.

Taking cognisance of the criteria to be applied and the process to be followed in the allocation of functions, the "top-down" approach for the allocation of further



functions to the lower spheres of government as stipulated in the Constitution is superfluous.

The major functions which are proposed to be delegated to the as yet to be established single-purpose local authorities are education and housing, which is *inter alia* in line with the practice in the countries selected for this dissertation. It is furthermore, proposed that ambulance, municipal policing (crime prevention), vehicle licencing, slum clearance, fire protection, health (clinics and environmental health), municipal libraries and local museums be devolved to local government in that this sphere has been executing these functions on behalf of the higher levels of government for a considerable period without the commensurate grants to cover the costs. The privatisation of functions/services should be encouraged by the Government by way of contracting out through a process of compulsory competitive tendering or by entering into public-private partnerships.

Turning to finance, the transformation of local government in South Africa has resulted in increased service and developmental responsibilities and has led to the incorporation of the previously disadvantaged or poor areas with the consequent financial challenges.

In view of the foregoing circumstances new sources of revenue have to be created and/or taxes or other sources of revenue have to be devolved to local government as well as reshuffling existing sources of local revenue. In this regard it is proposed that the district councils be empowered to levy a tax on rural land and to continue levying the regional establishment and the regional services levies, that is, payroll and turnover levies.

Flowing from the foregoing, it is also proposed that the second tier local authorities in metropolitan areas transfer the commercial and industrial property taxes collected in their respective areas to the metropolitan councils; that the rate in respect of payroll and turnover levies referred to above be increased, which percentage is to be re-diverted to the municipalities and villages from which areas they originated; that bulk suppliers distribute one cent per litre of



fuel direct to the municipalities and villages to which they were supplied; that municipalities and villages be empowered to impose a tax on African beer sales; and that district councils be empowered to impose a head tax on livestock.

Turning to the culture of non-payment for municipal services rendered, it is proposed that the jurisdiction of the small claims court be extended by national legislation to deal with claims by local authorities for the payment of services delivered.

Furthermore, it is proposed that a mixed system of local government finance be implemented whereby each sphere of government will be entitled to retain a predetermined share of the taxes collected, for example, the proposed local fuel tax, and whereby a national tax sharing pool is established from which grants are distributed between the spheres of government for either general or specific purposes.

Finally, it is proposed that the principle of matching finance to delegated or devolved functions be strictly applied, which has not been the case in the past and has led to accusations of “unfunded” mandates as well as the beneficial principle of finance in respect of all local trading services. In addition, it is proposed that the Government frames an integrated plan for the management of public finance to be based on certain criteria which encompass the objectives and values of decentralisation.



## **CHAPTER 11**

### **GENERAL SUMMARY**

The reform or transformation process in any country has an impact on the political system, political structures, functions and finance, which four components are closely interrelated. Hand in hand with the type of reform process goes either centralisation or decentralisation of the functions, powers and finance of the governmental structures at the various levels of government which in turn has an influence on the intergovernmental relations.

In developing countries the reforms tend to be more frequent due to the fact that they usually have relatively heterogeneous societies and have unstable political systems. Furthermore, due to the characteristics or features of developing nations, the reforms usually tend to centralise authority and power in the national governments.

The system of government applicable in a country also has a bearing on decentralisation of authority, powers and functions. Countries with a unitary system of government usually centralise power and authority in the national government, whilst nations with a federal system of government usually decentralise authority and power in the lower levels of government. This is, however, not always the case and is dependent on whether a country is a developed or developing nation, for example, Britain and Nigeria where the former has a unitary system of government, yet more power and authority has been decentralised to local government than in the case of Nigeria which has a federal system of government.

South Africa is a multi-party democracy with a unitary system of government in whose constitution are enshrined several features of federalism, such as, a bill of rights, supremacy of the written constitution, relatively autonomous provinces, that is, separate sphere of government and a relatively independent judiciary which resolves conflicts between organs of government. South Africa is also a combination of a developed and developing country which has undergone significant decentralised reforms to the political system and structures of government since the first democratic national elections in 1994.



In a multi-party democracy with a heterogeneous or plural society such as South Africa, it is imperative that there is decentralisation of power and authority to the lower levels of government, bearing in mind the federal features in the Constitution as well as the fact that the country suffers from most of the maladies common to developing nations.

Turning to the developing countries selected for this study, Botswana inherited the unitary system of government from Britain and has had political stability and economic prosperity since gaining independence in 1965, which is attributed to the relative dominance of one political party, its homogeneous society, small populace spread over a vast area, and agricultural and mineral resources.

Local government in Botswana has, however, remained weak, which is mainly attributed to the lack of skilled human resources and inadequate sources of revenue, particularly since the abolition of the local government tax in 1987, which the Government is presently looking to re-introduce along with other types of taxes, such as, fuel, sales and utilities taxes as well as a head tax on cattle.

Consequently, due to the extreme dependency of local government in Botswana on the central government for deficit grants to carry out its limited statutory obligations, decentralisation has had to be limited to the form of deconcentration of authority and power, primarily by way of the district administration.

With regard to the other selected developing country, Nigeria has had political instability and economic decline since gaining independence from Britain in 1960, which is ascribed to ethnicity, religion, civil war, economic inequalities, poor leadership of the various civil and military regimes, corruption and nepotism. Nigeria is a heterogeneous nation which can be given as one of the reasons for the implementation of a federal system of government.

The implication of the foregoing unstable situation is that it permeates all the levels of government. Local government has been drastically reformed on several occasions, whose functions have increased and decreased, budgets have risen and fallen, staffing has changed from being answerable to chiefs to being dependent on ministries, and authority has shifted from chiefs to representative elected institutions to direct military rule.



These centralistic sequence of events have taken place in spite of Nigeria being a federal state, which can be ascribed to the fact that Nigeria is a developing nation and also the numerous military take-overs or *coups de 'tat*.

In view of these drastic reforms, local government is under-resourced and is heavily dependent on general and specific grants from the federal and state governments, despite having various sources of revenue which include income and poll taxes.

Notwithstanding the foregoing, there have been attempts, particularly with the decentralised reforms of 1976, to devolve substantial functions and powers to local government as well as to re-introduce directly elected representation at the local level. Furthermore, the Constitution of 1979 guaranteed democratically elected local government councils and granted local authorities specific statutory and shared responsibilities. In addition, the political authority of local authorities was enhanced by the entrenchment of their names in the Constitution of 1989.

Turning to the developed countries selected for this study, local government in Britain has undergone significant reforms to its structure, functions and finance over the past thirty years with the implementation of a multi-layered local structure in England, Scotland and Wales in the 1970's, which has subsequently been replaced in Scotland with a single tier local structure as well as in England in respect of the metropolitan areas for primarily political reasons which emanated from the Thatcher era of power.

The Thatcher governments, however, initiated numerous horizontal decentralised reform initiatives at local level by way of privatisation of functions, such as public transportation and aspects of education and housing. Furthermore, a number of services had to be contracted out by way of compulsory competitive tendering and the sharing of responsibility with other public or private sector organisations in respect of the provision of services, that is, the so-called enabling or facilitating role of local government.

In both Nigeria and the United States of America the federal constitutions provide for the separation of powers between the executive and legislative branches of the government thereby ensuring checks and balances between these two branches. The Federal Government of Nigeria implemented this system of checks and balances to the local level



of government *via* the Constitution of 1989 with the establishment of an executive federal presidential system which entailed the separation of powers and legislative impeachment and removal of the elected executive. These measures were introduced to *inter alia* hasten the development of democracy and to strengthen the status and autonomy of local government by giving it parity of treatment with the higher levels of government.

In the United States of America any attempts to consolidate, merge or enlarge the local government structures were vigorously opposed by the American populace who strongly believe in the objectives and values of decentralisation and whose ideology it is to have government close to the people and in this way each individual has the opportunity in playing a role in the local political process, that is, a strong emphasis on democracy and political or public participation.

Local government, though not enshrined in the Federal Constitution, can through the provisions in the constitutions of the states secure considerable control over its own affairs *via* the implementation of a kind of charter whereby its rights and status are guaranteed. Thus, an example of a charter is home rule provisions which give local authorities relative autonomy from the state legislature by allowing them to exercise independent power over their own affairs without the need for state enabling legislation.

There are thousands of special-purpose local authorities in the United States of America which have been established to provide a wide array of functions of which education is the most predominant, that is, the so-called school districts. The proliferation of local governments, such as special districts, to the extent as in America leads to duplication, fragmentation and overlapping of services as well as confusion amongst the local populace.

Local authorities in the United States of America are relatively dependent on block and categorical grants from the federal and state government despite having various sources of own revenue, which include income and sales taxes. Local authorities in South Africa on the other hand have not relied on subsidies from the higher levels of government to any significant degree and are precluded from imposing income and sales taxes which are collected by the national government.



Reverting to the political system of government in South Africa, it is proposed that the federal features of the Constitution of 1996 be extended to include the separation of the executive and the legislature in order to make provision for a system of checks and balances whereby the President will be accountable and responsible to the public for the decisions of Parliament and whereby the said branches of state are given freedom to operate independently of one another.

The powers, rights and status of both the provincial and local levels of government should be further guaranteed in the Constitution of 1996 whereby they are given the right or ensured of funding from the central government should they for circumstances beyond their control not be in a position to effectively execute a statutory obligation. If, however, a tier of local government or a particular local authority cannot fulfill a statutory function, it should either be transferred to the upper tier local institution or be undertaken by a representative special-purpose local authority thereby remaining within the local sphere of government.

With regard to the political system in South Africa, it is also proposed that provision be made in the Constitution of 1996, which will enable the provincial governments to make provision in their constitutions for home rule charters for local authorities. In order to further enhance the rights and status of local government it is also proposed that the names of the as yet to be established local authorities appear in a schedule to the Constitution of 1996, as in the case of Nigeria. In other words, the boundaries of a local authority can only be altered with an amendment to the Constitution.

The foregoing proposal for the political system in South Africa should contribute to the intergovernmental relations which at present are dominated by the central government, that is, if implemented the role of the Government will be less dominant which is in line with the objectives and values of decentralisation.

Turning to the local political structures in the context of South Africa and the fundamental values of decentralisation in a democratic state, a two-tier local structure in metropolitan and a three-tier local structure in non-metropolitan areas is proposed, comprising respectively of metropolitan councils and urban municipalities and district councils, rural municipalities and localities or villages. In addition, the establishment of land boards in



appropriate non-metropolitan areas for *inter alia* the allocation of tribal land and the appointment of commissioners in districts to co-ordinate and facilitate development projects is proposed.

In accordance with the values of decentralisation, local authorities on all tiers should be directly elected and local government must accordingly also form a strong level of government which is of significance and has an impact and influence at the higher levels of government as well as an adequate tax base and autonomy in allocating expenditures and accountable for service delivery.

Local authorities in South Africa must continue to have three basic functions, namely, services, legislative and control/executive functions. Functions should be either delegated or devolved to the lower levels of government by way of reaching agreement on a number of basic principles which regulate the power arrangements between the three spheres (levels) of government, by specifying in the Constitution of 1996 the range of functions for which each sphere is responsible and by permitting maximum autonomy of freedom in the execution thereof.

The criteria or principles to be applied when distribution functions between the tiers of local government should be economy of scale, area significance, and area or size of local authority in terms of financial and human resources. It is also imperative that agreement is reached between the tiers of local government which defines a clear functional division of responsibility that recognises the most efficient allocation of functions.

The major functions proposed to be delegated to local government are education and housing which functions should be undertaken by a limited number of representative special-purpose authorities in each province due to their operational flexibility and distance from politics.

Municipal policing, that is, crime prevention should be devolved to local government in the execution of which local authorities can play an enabling role. The further functions which should be devolved to local government are ambulance, vehicle licencing, slum clearance, fire protection, municipal libraries and local museums, which functions are presently being undertaken on a delegated basis without the commensurate funding or grants to cover the



operational costs. The privatisation of local functions/services should be encouraged by the Government, but not enforced through legislation as was the case in Britain due to the fact that this would be contrary to the objectives and values of decentralisation.

Finally, with regard to the decentralised local government finance in South Africa, it is proposed that the district councils also be empowered to impose property taxes to assist them with the developmental role which they must fulfill in terms of the Constitution; that municipalities in metropolitan areas transfer the revenue from commercial and industrial property taxes to the metropolitan councils; that the rate in respect of the existing payroll and turnover levies imposed by the district and metropolitan councils be increased, which percentage (,25) should in turn be redirected to the second and third tier local authorities from which they originated; that the bulk suppliers distribute one cent per litre of fuel supplied direct to the municipalities and villages in the areas of jurisdiction in which the supplies were made; that the municipalities and villages be empowered to impose a tax on the sale of African beer; and that district councils be empowered to impose a head tax on livestock.

With regard to the prevailing culture of non-payment for municipal services in South Africa, it is proposed that the jurisdiction of the small claims court be extended to handle claims by local authorities for the payment of services which were delivered to the consumers, which process should facilitate payment and reduce legal costs.

It is furthermore proposed that a hybrid system of local government finance be implemented by the national government whereby each sphere of government will be entitled to retain a share of the taxes collected, for example, the proposed local fuel tax, and whereby a national tax sharing pool is established from which grants are distributed between the three spheres of government for either general or specific purposes, for example, by way of the formula-based equitable share of revenue which is in the process of being phased in.

Lastly, the principle whereby finance follows delegated functions should be strictly adhered to, which is not the case at present and which consequently places unnecessary financial strain on the lower levels of government and, in turn has negative impact on the effective delivery of services. In addition the beneficial principle of finance should also be strictly



applied in respect of all trading services, for example, electricity and water. It is also proposed that the Government formulates an integrated plan for dealing with public finance based on criteria which encompass the principles of decentralisation, particularly in the light of the close interrelationship between political system, local political structures, functions and finance.

In developing the foregoing macro-proposals for the political system, local political structures, functions and finance in the context of a multi-party democratic state like South Africa, due cognisance was taken of the objectives and values of decentralisation and the fact that South Africa is an advanced developing country with a heterogeneous society. Whether there exists the political will to implement these decentralised proposals is an open question.

To conclude, it can be stated that the study makes the following contributions to the specific field or sphere of science, details of which are addressed in chronological order.

- The development of a table of comparison between the various degrees or forms of decentralisation, *vide* Table 2.1.
- The determination of whether local government forms a strong or weak sphere or level of government in the light of the types of local authorities, *vide* subsection 2.5.1.
- The identification and combination of characteristics of strong and weak spheres of government in a number of models (with strong and weak tiers) within the context of the major systems of government culminating in illustrative models of local government, *vide* subsections 2.5.2 and 2.5.3.
- The application of the models of local government in a macro context between the various spheres of government or in a micro context within the local sphere of government, that is, the tiers within the local sphere of government, flowing from which the weak and strong unitary models of government were developed, *vide* subsection 2.5.3.
- The establishment or identification of the basic local functions performed and the categories of local services, *vide* subsection 2.6.1 and, for example, Table 7.3.
- The determination of principles for the allocation of functions between the spheres of government within the context of the various forms of decentralisation, *vide* subsection 2.6.2.



- The identification of the various sources of local revenue and the determination of the principles of financing local government and models of local government finance systems with the view to formulating a model within the context of decentralisation and degree of development of South Africa, *vide* section 2.7.
- Flowing from the foregoing, a table setting out the criteria for comparison in respect of the study was framed, *vide* Table 2.6.
- An analysis and evaluation of the criteria identified for comparison, namely, political systems, structures, functions and finance over time frames in respect of the countries selected, namely, Britain (unitary system) and its former colonies, Botswana (unitary system), Nigeria (federal system), United States of America (federal system) and South Africa (mixture of both systems), with specific reference to the decentralised reforms implemented, *vide* Chapters 3 to 7.
- The development of various figures and tables contained in Chapters 3 to 7, namely, Figures 3.1, 4.1, 5.5, 5.6, 5.7, Table 7.3, Figures 7.1, 7.2 and 7.4.
- A comparative study of the decentralisation initiatives or strategies in the selected countries over time frames pertaining to the local sphere of government with the emphasis being on the comparison of the developing and developed countries with South Africa, *vide* Chapters 8 and 9.
- A comparison of the political systems and structures, functions and finance at local government level with the focus on the degree of development which in turn will determine the form of decentralisation, *vide* Chapters 8 and 9 and section 10.2.
- An analysis of the consequences of decentralisation in the selected developing and developed countries (experiences, institutions, lessons and strategies) with the view to discerning similarities and differences, determining variable and constant factors, distinguishing the unique from the common, and the implementation thereof within the developmental context of South Africa, *vide* Chapters 8 and 9.
- Flowing from the comparative evaluation of the decentralised reforms in, respectively, the selected developing and developed countries with South Africa, Tables 8.1 and 9.1 were developed to depict the differences and similarities with regard to the criteria identified for the study.
- An integrated approach or perspective of decentralisation initiatives at local government level for South Africa, that is, in respect of structures, functions and finance, *vide* Chapter 10.



- Within the context of the objectives and values of decentralisation and of a weak unitary model of government, the presidential system of executive authority is proposed for South Africa, *vide* subsection 10.3.1.
- Following from the foregoing, it is proposed that the **Constitution Act**, 1996 be amended to provide the provincial and local spheres of government with greater autonomy in terms of status, powers and functions, *vide* subsections 10.3.2 and 10.3.3.
- Bearing in mind *inter alia* the objectives and values of decentralisation in a democratic state, a local government structure based on a weak unitary model is proposed whereby the intermediate tier comprises general-purpose local authorities that execute powers and functions which need to be provided close to the communities. Institutions or structures such as the establishment of district development committees/officers and land boards in rural areas are proposed, *vide* section 10.4.
- Taking the merits of putting into place a hybrid federal and unitary local political structure, additional decentralised functions are proposed as well as alternative, new sources and innovative methods of finance in the developmental context of South Africa, *vide* sections 10.5 and 10.6.
- Emanating from the various proposals contained in Chapter 10, various figures and tables have been developed, namely, Table 10.1, Figures 10.1, 10.2 and 10.3, Tables 10.2 and 10.3 and Figure 10.4 as well as the tables reflected on Annexures I and J.



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### Centralised System of Grant Allocation

#### Income

##### Major Taxes

- \* Personal Income
- \* Corporate Profit
- \* Real Estate
- \* VAT
- \* Excise Duties

NATIONAL  
GOVERNMENT

#### Expenditure

##### Major National Government Programmes

- \* Defence
- \* Foreign Affairs
- \* Social Security [Income Support]
- \* Internal Security

##### Financial Support for Local Government

- Grants
- Subsidies

##### Local Taxes

- \* Tourism
- \* Dogs
- \* Etc.

LOCAL  
GOVERNMENT

##### Fees and Charges

- \* Tariffs
- \* Charges
- \* Etc.

##### Major Local Government Programmes

- \* Health
- \* Transportation
- \* Social Services
- \* Education
- \* Leisure
- \* Planning
- \* Registration
- \* Amenity Services
- \* Etc.

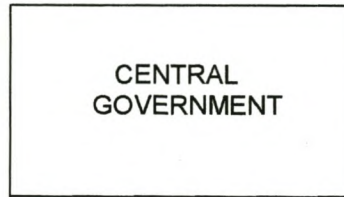


## Decentralised System of Tax Sharing

### Income

#### Major Share of Taxes

- \* Personal Income
- \* Corporate Profit
- \* VAT
- \* Excise Duties
- \* Licences



### Expenditure

#### Major National Government Programmes

- \* Defence
- \* Foreign Affairs
- \* Social Security [Income Support]
- \* Internal Security

Transfers to Central Government



#### Share of Taxes

- \* Personal Income
- \* Corporate Profit
- \* VAT
- \* Excise Duties
- \* Licences



#### Major Local Government Programmes

- \* Health
- \* Transportation
- \* Social Services
- \* Education
- \* Leisure
- \* Planning
- \* Registration
- \* Amenity Services
- \* Facility Services

#### Local Taxes

- \* Real Estate
- \* Tourism
- \* Dogs
- \* Residence



#### Fees and Charges

- \* Tariffs
- \* Charges





### Hybrid System of Grant Allocation with Local Tax

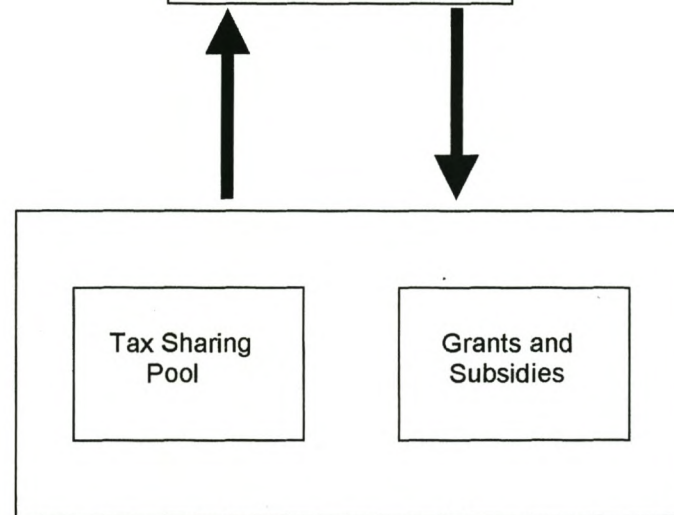
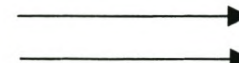
#### Various Taxes

- \* Personal Income
- \* Corporate Profit
- \* Real Estate
- \* VAT
- \* Excise Duties



#### Major National Government Programmes

- \* Defence
- \* Foreign Affairs
- \* Social Security
- \* Internal Security



#### Various Taxes

- \* Supplementary Local Income Tax
- \* Supplementary Local Sales Tax
- \* Real Estate Tax
- \* Tourism

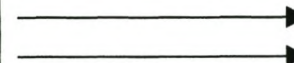


Fees and Charges



#### Major Local Government Programmes

- \* Health
- \* Transportation
- \* Education
- \* Social Services
- \* Leisure etc.
- \* Amenity Services
- \* Facility Services





## Schedule 4

### Functional Areas of Concurrent National and Provincial Legislative Competence

#### **Part B**

*The following local government matters to the extent set out in section 155(6)(a) and (7):*

- Air pollution*
- Building regulations*
- Child care facilities*
- Electricity and gas reticulation*
- Firefighting services*
- Local tourism*
- Municipal airports*
- Municipal planning*
- Municipal health services*
- Municipal public transport*
- Municipal public works only in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under this Constitution or any other law*
- Pontoons, ferries, jetties, piers and harbours, excluding the regulation of international and national shipping and matters related thereto*
- Stormwater management systems in built-up areas*
- Trading regulations*
- Water and sanitation services limited to potable water supply systems and domestic waste-water and sewage disposal systems*



## Schedule 5

### Functional Areas of Exclusive Provincial Legislative Competence

#### **Part B**

*The following local government matters to the extent set out for provinces in section 155(6)(a) and (7):*

*Beaches and amusement facilities  
Billboards and the display of advertisements in public places  
Cemeteries, funeral parlours and crematoria  
Cleansing  
Control of public nuisances  
Control of undertakings that sell liquor to the public  
Facilities for the accommodation, care and burial of animals  
Fencing and fences  
Licensing of dogs  
Licensing and control of undertakings that sell food to the public  
Local amenities  
Local sport facilities  
Markets  
Municipal abattoirs  
Municipal parks and recreation  
Municipal roads  
Noise pollution  
Pounds  
Public places  
Refuse removal, refuse dumps and solid waste disposal  
Street trading  
Street lighting  
Traffic and parking*



## Schedule 4

### Functional Areas of Concurrent National and Provincial Legislative Competence

#### **Part A**

*Administration of indigenous forests*  
*Agriculture*  
*Airports other than international and national airports*  
*Animal control and diseases*  
*Casinos, racing, gambling and wagering, excluding lotteries and sports pools*  
*Consumer protection*  
*Cultural matters*  
*Disaster management*  
*Education at all levels, excluding tertiary education*  
*Environment*  
*Health services*  
*Housing*  
*Indigenous law and customary law, subject to Chapter 12 of the Constitution*  
*Industrial promotion*  
*Language policy and the regulation of official languages to the extent that the provisions of section 6 of the Constitution expressly confer upon the provincial legislatures legislative competence*  
*Media services directly controlled or provided by the provincial government, subject to section 192 of the Constitution*  
*Nature conservation, excluding national parks, national botanical gardens and marine resources*  
*Police to the extent that the provisions of Chapter 11 of the Constitution confer upon the provincial legislatures legislative competence*  
*Pollution control*  
*Population development*  
*Property transfer fees*  
*Provincial public enterprises in respect of the functional areas in this Schedule and Schedule 5 of the Constitution*  
*Public transport*



- *Public works, only in respect of the needs of provincial government departments in the discharge of their responsibilities to administer functions specifically assigned to them in terms of the Constitution or any other law*

*Regional planning and development*

*Road traffic regulation*

*Soil conservation*

*Tourism*

*Trade*

*Traditional leadership, subject to Chapter 12 of the Constitution*

*Urban and rural development*

*Vehicle licencing*

*Welfare services*



## Schedule 5

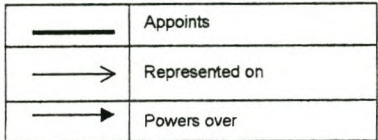
### Functional Areas of Exclusive Provincial Legislative Competence

#### **Part A**

*Abattoirs*  
*Ambulance services*  
*Archives other than national archives*  
*Libraries other than national libraries*  
*Liquor licences*  
*Museums other than national museums*  
*Provincial planning*  
*Provincial cultural matters*  
*Provincial recreation and amenities*  
*Provincial sport*  
*Provincial roads and traffic*  
*Veterinary services, excluding regulation of the profession*



### **Local Government Structures**





F U N C T I O N S	DEVELOPING COUNTRIES					DEVELOPED COUNTRIES		
	BOTSWANA		NIGERIA	SOUTH AFRICA		BRITAIN (England & Wales)		UNITED STATES OF AMERICA
	Rural	Urban		Metropolitan	Non-Metropolitan District	Metropolitan Counties	Non-Metropolitan Counties	
	Primary Education Health & Sanitation Roads Water Rural Area Development Markets Stray Livestock Disposal Parks & Recreation Cemeteries	Primary Education Health & Sanitation Roads Water Community Development Markets Stray Livestock Disposal Parks & Recreation Cemeteries Public Housing Electricity Control of Animals Control of Advertising, Dangerous Trades & Nuisances	Markets & Motor Parks Sanitation, Refuse & Night Soil Disposal Control of Vermin Slaughter-houses Public Conveniences Burial Grounds Registration of Births, Deaths & Marriages Parks, Gardens & Open Spaces Licensing of Bake- houses, Sale of Liquor & Bicycles Control of Animals Naming of Roads Control of Hoardings, Advertisements & Loudspeakers Collection of Parking Fees	Air Pollution Beaches Billboards Building Regulations Cemeteries Childcare Cleansing Control of Public Nuisances Control of Sale of Liquor Electricity & Gas Fire Fighting Local Tourism Dog Licensing Licensing of Sale of Food Local Amenities Local Sports Facilities Municipal Airports Municipal Planning Municipal Health Services Municipal Public Transport Municipal Public Works Pontoons, Ferries, Jetties & Piers Stormwater Trading Regulations Water & Sanitation Markets Abattoirs Parks & Recreation Roads Pounds Refuse Removal Street Trading Street Lighting Traffic & Parking	Water Supply Electricity Supply Integrated Development Planning Distribution of Grants Sewerage Purification Passenger Transport Markets Cemeteries & Crematoria Collection of Taxes, Levies & Duties	Strategic Planning Highways Traffic Passenger Transport Land Drainage Small-holdings Refuse Disposal Limited Housing* Town Development Parks, Recreation, Museums & Arts Fire Police Consumer Protection	Strategic Planning Highways Traffic Passenger Transport Co-ordination Land Drainage Small-holdings Refuse Disposal Limited Housing* Town Development Parks, Recreation, Museums & Arts Education Libraries Personal Social Services Fire Police Consumer Protection	Fire Fighting Policing Education Sanitation Parks & Recreation Airports Parking Control Libraries Town & Country Planning Housing Public Transport Health & Social Welfare Roads Public Utilities Conservation Cemeteries
						SCOTLAND		
						Regions	Districts	
						Education Social Work Strategic Planning Roads Water Consumer Protection Police Fire Valuation Amenities & Tourism** Industrial Development**	Housing Planning & Building Control Libraries Environmental Health Refuse Collection & Disposal Amenities & Tourism Industrial Development	

\*Housing provided by districts

\*\*Concurrent functions



**ANNEXURE J*****Proposed Distribution of Functions between the Tiers of Local Government***

<b>CATEGORY OF FUNCTION/SERVICE</b>	<b>METROPOLITAN AND DISTRICT COUNCILS</b>	<b>URBAN AND RURAL MUNICIPALITIES</b>
Protection and Safety Services	Traffic management Fire management Ambulance Disaster management (civil protection)	Crime prevention Traffic control Law enforcement Fire fighting Building control Stray animal disposal Vehicle licencing Public nuisances Licencing and control of food sales Slum clearance
Trading Services	Bulk electricity supply Bulk water supply Airports Public transport Markets Abattoirs	Electricity supply Water supply Stormwater drainage Cleansing Public works Street lighting and traffic signals
Social and Welfare Services	Major community development projects Major commercial and industrial development projects Agricultural and rural/remote area development*	Child care facilities Amenities Cemeteries and crematoria Beaches and amusement facilities Health (clinics and environmental health) Registration of births, deaths and marriages Commercial and industrial development Community development
Cultural and Leisure Services	Major cultural institutions Major recreational areas and facilities	Libraries Museums Sports facilities Tourism Parks and recreation Public places
Environmental Services	Strategic planning Arterial highways Trunk sewers and main drainage Conservation and environmental protection	Town planning Waste collection and disposal Air pollution Bill boards and advertising Facilities for burial of animals Pounds/veterinary service Street trading Pontoons, ferries, jetties and piers Noise pollution

\*Non-metropolitan areas